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सं० 43]

नई दिल्ली, शनिवार, अक्टूबर 27, 1984/कार्तिक 5, 1906

No. 43]

NEW DELHI, SATURDAY, OCTOBER 27, 1984/KARTIKA 5, 1906

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके
Separate paging is given to this Part in order that it may be filed as a separate compilation

भाग II—खण्ड 3—उप-खण्ड (ii)
PART II—Section 3—Sub-section (ii)

(रक्षा मंत्रालय को छोड़ कर) भारत सरकार के मंत्रालयों द्वारा जारी किये गये सांविधिक आदेश और अधिसूचनाएं
Statutory Orders and Notifications issued by the Ministries of the Government of India
(other than the Ministry of Defence)

गृह मंत्रालय

(कार्मिक और प्रशासनिक सुधार विभाग)

नई दिल्ली, 10 अक्टूबर, 1984

का० आ० 3348.—केन्द्रीय सरकार, राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम, 1976 के नियम 10 के उपनियम (4) के अनुसरण में कार्मिक और प्रशासनिक सुधार विभाग के प्रशासनिक नियंत्रण में स्थित सचिवालय प्रशिक्षण तथा प्रबंध संस्थान, नई दिल्ली कार्यालय को, जहां 80 प्रतिशत और उससे अधिक कर्मचारियों ने हिंदी का कार्यसाधक ज्ञान प्राप्त कर लिया है, अधिसूचित करती है।

[सं० 11011/2/84-हिंदी
अशोक प्रधान, निदेशक (प्रशासन)

MINISTRY OF HOME AFFAIRS

(Department of Personnel and Administrative Reforms)

New Delhi, the 10th October, 1984

S.O. 3348.—In pursuance of sub-rule (4) of Rule 10 of the Official Language (Use for the Official purposes of the Union) Rules, 1976, the Central Government of India hereby notifies the Office of the Institute of Secretariat Training

and Management, New Delhi under the Administrative control of Department of Personnel and Administrative Reforms, 80 per cent and above staff whereof have acquired working knowledge of Hindi.

[No. 11011/2/84-Hindi]
ASHOK PRADHAN Director (Admn.)

वित्त मंत्रालय

(राजस्व विभाग)

आदेश

नई दिल्ली, 10 अक्टूबर, 1984

स्टाम्प

का. आ 3349.—भारतीय स्टाम्प अधिनियम 1899 (1899 का 2) की धारा 9 की उपधारा (1) के खड (क) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार एतद् द्वारा उस शुल्क को माफ करती है जो पंजाब वित्तीय निगम, चन्डीगढ़ द्वारा जारी किये जाने वाले केवल दो सौ बीस लाख रुपये के श्रण-पत्रों (25 वीं श्रंखला) के रूप में बन्धपत्रों पर उक्त अधिनियम के अन्तर्गत प्रभावी है।

सं० 5 / 84 —स्टाम्प— फार्म सं० 33/59/84-बि० क०]

भगवान दास, अव्वर सचिव

MINISTRY OF FINANCE

(Department of Revenue)

New Delhi, the 10th October, 1984

ORDER

STAMPS

S.O. 3349.—In exercise of the powers conferred by clause (a) of sub-section (1) of section 9 of the Indian Stamp Act, 1899 (2 of 1899), the Central Government hereby remits the duty with which the bonds in the nature of debentures (25th Series) to the value of rupees two hundred twenty lakhs only to be issued by the Punjab Financial Corporation, Chandigarh are chargeable under the said Act.

[No. 57/84-Stamps-F. No. 33/59/84-ST]

BHAGWAN DAS, Under Secy.

(आर्थिक कार्य विभाग)

शुद्ध पत्र

नई दिल्ली, 8 अक्टूबर, 1984

का० आ० 3350 :- वित्त मंत्रालय (आर्थिक कार्य विभाग) की दिनांक 17-4-1984 की अधिसूचना संख्या का० आ० 309(अ०), जो दिनांक 17-4-1984 के भारत के असाधारण राजपत्र के भाग II खंड 3 उपखंड (ii) में प्रकाशित हुई थी, की अनुसूची में :

कालम शीर्षों "6 क, 7, 8, 9, 10, 11, 12 और 13" के स्थान पर "7, 8, 9, 10, 11, 12, 13 और 14" पढ़िए।

[संख्या 16/9/75-एन० एस०]

श्रीमती रीता खोराना, अवर सचिव

(Department of Economic Affairs)

New Delhi, the 8th October, 1984

CORRIGENDUM

S.O. 3350—In the Ministry of Finance (Department of Economic Affairs) Notification No. S.O. 309(E) dated the 17th April, 1984 published in the Gazette of India Extraordinary Part II Section 3 Sub-section (ii), dated the 17th April, 1984 in the Schedule.

For column headings "6a, 7, 8, 9, 10, 11, 12, 13"

Read "7, 8, 9, 10, 11, 12 13 & 14".

[F. No. 16/9/75-NS]

Mrs. R. KHORANA, Under Secy.

(वैकिंग विभाग)

नई दिल्ली, 11 अक्टूबर, 1984

का० आ० 3351 :- राष्ट्रीयकृत बैंक (प्रबंध और प्रकीर्ण उपबंध) योजना, 1970 के खंड 3 के उपखंड (च) के अनुसरण में, केन्द्रीय सरकार, भारतीय रिजर्व बैंक से परामर्श के पश्चात् श्री सलामत उल्लाह, ए-3 हजरत निजामुद्दीन

बैस्ट, नई दिल्ली को एतद्वारा 11 अक्टूबर, 1984 से पंजाब नेशनल बैंक के एक निदेशक के रूप में नियुक्त करती है।

[संख्या एफ० 9/29/84-बी० ओ०-1]

(Banking Division)

New Delhi, the 11th October, 1984

S.O. 3351.—In pursuance of sub-clause (f) of clause 3 of the Nationalised Banks (Management and Miscellaneous Provisions) Scheme, 1970, the Central Government, after consultation with the Reserve Bank of India, hereby appoints Shri Salamat Ullah, A-3, Hazrat Nizamuddin West, New Delhi, as a Director of the Punjab National Bank with effect from October 11, 1984.

[No. F. 9/29/84-BO.I]

नई दिल्ली, 13 अक्टूबर, 1984

का.आ. 3352 :- राष्ट्रीयकृत बैंक (प्रबंध और प्रकीर्ण उपबंध) स्कीम, 1980 के खंड 8 के उपखंड (1) के साथ पठित खंड 3 के उपखंड (क) के अनुसरण में केन्द्रीय सरकार, भारतीय रिजर्व बैंक से परामर्श करने के पश्चात् श्री अवतार सिंह बग्गा को 13 अक्टूबर, 1984 से आरम्भ होने वाली और 12 अक्टूबर 1987 को समाप्त होने वाली अवधि के लिए पंजाब एण्ड सिंध बैंक के प्रबंध निदेशक के रूप में नियुक्त करती है।

[संख्या एफ. 9/31/84-बी.ओ.-I(i)]

New Delhi, the 13th October, 1984

S.O. 3352.—In pursuance of sub-clause (a) of clause 3 read with sub-clause (1) of clause 8 of the Nationalised Banks (Management and Miscellaneous Provisions) Scheme, 1980, the Central Government, after consultation with the Reserve Bank of India, hereby appoints Shri Autar Singh Bagga as the Managing Director of the Punjab and Sind Bank for a period commencing on October 13, 1984 and ending with October 12, 1987.

[No. F. 9/31/84-BO. I(ii)]

का.आ. 3353 :- राष्ट्रीयकृत बैंक (प्रबंध और प्रकीर्ण उपबंध) स्कीम, 1980 के खंड 7 के साथ पठित खंड 5 के उपखंड (1) के अनुसरण में, केन्द्रीय सरकार, भारतीय रिजर्व बैंक से परामर्श करने के पश्चात् श्री अवतार सिंह बग्गा की, जिन्हें 13 अक्टूबर, 1984 से पंजाब एण्ड सिंध बैंक के प्रबंध निदेशक के रूप में नियुक्त किया गया है, उसी तारीख से पंजाब एंड सिंध बैंक के निदेशक बोर्ड के अध्यक्ष के रूप में नियुक्त करती है।

[सं. एफ. 9/31/84-बी.ओ.-I(ii)]

च.वा. मीरचन्दानी, निदेशक

S.O. 3353.—In pursuance of sub-clause (1) of clause 5, read with clause 7, of the Nationalised Banks (Management and Miscellaneous Provisions) Scheme, 1980, the Central Government, after consultation with the Reserve Bank of India, hereby appoints Shri Autar Singh Bagga who has been

appointed as Managing Director of the Punjab and Sind Bank with effect from October 13, 1984 to be the Chairman of the Board of Directors of the Punjab and Sind Bank with effect from the same date.

[No. F. 9/31/84-BO. I(ii)]
C. W. MIRCHANDANI, Director

(बैंकिंग प्रभाग)

नई दिल्ली, 12 अक्टूबर, 1984

का. भा. 3354—बैंककारी विनियमन अधिनियम, 1949 (1949 का 10) की धारा 53 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार भारतीय रिजर्व बैंक की सिफारिश पर एतद्वारा घोषणा करती है कि उक्त अधिनियम की धारा 9 के उपबंध 14 सितम्बर, 1985 तक बारी दो आव बैंक लिमिटेड पर उस सीमा तक लागू नहीं होंगे जहाँ तक इनका संबंध उसके द्वारा प्रेमगढ़, जिला होशियारपुर, पंजाब में धारित भू-सम्पत्ति से है।

[सं० 15/26/83 बी० ओ०-II]

माधव लाल अवर सचिव

New Delhi, the 12th October, 1984

S.O. 3354.—In exercise of the powers conferred by section 53 of the Banking Regulation Act, 1949 (10 of 1949) the Central Government, on the recommendations of the Reserve Bank of India, hereby declares that the provisions of section 9 of the said Act shall not apply till 14th September, 1985 to Bari Doab Bank Ltd. in respect of the landed property held by it at Premgarh, Hoshiarpur, District, Punjab.

[No. 15/26/3-B.O.III]

MADHAV LAL, Under Secy.

वाणिज्य मंत्रालय

(मुख्य नियंत्रक) आयात-निर्यात का कार्यालय

(बी० एल० अनुभाग)

नई दिल्ली, 15 अक्टूबर 1984

आदेश

का. भा. 3355—डा. (श्रीमति) उषा गुप्ता, पो. भो. वाक्स 73003, नडोला जाम्बिया को आई सु जू आस्का 4 डोर सेडान 4-सिलिंडर 2000 सी सी डीजल आर एच डी, एल टी, डीलक्स माडल के आयात के लिये 63,000 रुए केवल का सीमा-शुल्क निकासी परमिट सं० पी०/जे०/3072283, दिनांक 21-5-84 दिया गया था। आवेदक ने उपर्युक्त सीमा-शुल्क निकासी परमिट की अनुलिपि प्रति के लिए इस आधार पर आवेदन किया है कि मूल सीमा-शुल्क निकासी परमिट अस्थानस्थ हो गया है/खो गया है। आगे यह भी बताया गया है कि मूल सीमा-शुल्क निकासी परमिट किसी भी सीमा-शुल्क प्राधिकारी के पास पंजीकृत नहीं करवाया गया था और उसके मूल्य का बिल्कुल भी उपयोग नहीं किया गया है।

2. अपने तर्क के समर्थन में लाइसेंसधारी ने उचित न्यायिक प्राधिकारी के पास विधिवत शपथ लेकर एक शपथ पत्र दाखिल किया है। तदनुसार, मैं सतुष्ट हूँ कि आवेदिका द्वारा मूल सीमा शुल्क निकासी परमिट सं० पी०/जे०/3072283 दिनांक 21-5-84 खो गया है। समय समय पर यथा संशोधित आयात नियंत्रण आदेश, 1955 7-12-1955 की उपधारा 9 (गग) द्वारा प्रदत्त अधिकारों का प्रयोग करते हुए उक्त मूल सीमा-शुल्क निकासी परमिट सं० पी०/जे०/3072283 दिनांक 21-5-84 एतद द्वारा रद्द किया जाता है।

3. पार्टी को सीमा-शुल्क निकासी परमिट की अनुलिपि प्रति अलग से जारी की जा रही है।

[सं० ए०/जी०-3/84-85/बी०एल०ए ०/2122]

एन० एस० कृष्णामूर्ति,
उप मुख्य नियंत्रक आयात-निर्यात
कृत मुख्य नियंत्रक आयात-निर्यात

MINISTRY OF COMMERCE

(Office of the Chief Controller of Imports and Exports)

(B.L. Section)

New Delhi, the 15th October, 1984

ORDER

S.O. 3355—Dr. (Mrs.) Usha Gupta, P.O. Box 73083, Ndola/Zambia was granted a Customs Clearance Permit No. P/J/3072283 dated 21-5-84 for Rs. 63,000 only for import of Isuzu Aska 4 Door Sedan 4-Cylinder 2000 CC diesel RHD, LT Delux model. The applicant has applied for issue of Duplicate copy of the above mentioned Customs Clearance Permit on the ground that the original CCP has been misplaced/lost. It has further been stated that the original CCP was not registered with any Customs authority and such the value of the CCP has not been utilised at all.

2. In support of her contention, the licensee has filed an affidavit duly sworn before appropriate judicial authority. I am accordingly satisfied that the original CCP No. P/J/3072283 dated 21-5-84 has been lost by the applicant. In exercise of the powers conferred under sub-clause 9(cc) of the Import (Control) Order, 1955 dated 7-12-1955 as amended from time to time, the said original CCP No. P/J/3072283 dated 21-5-84 issued to Mrs. Usha Gupta is hereby cancelled.

3. A duplicate copy of the Customs Clearance Permit is being issued to the party separately.

[No. A/G-3/84-85/BLS/2122]

N. S. KRISHNAMURTHI, Dy. Chief Controller
Imports & Exports

for Chief Controller of Imports & Exports

ऊर्जा मंत्रालय

(कोयला विभाग)

नई दिल्ली, 10 अक्टूबर, 1984

का. भा. 3356—केन्द्रीय सरकार ने, कोयला धारक क्षेत्र (अर्जन और विकास) अधिनियम, 1957 (1957 का

20) की धारा 4 की उपधारा (1) के अधीन, भारत सरकार के ऊर्जा मंत्रालय (कोयला विभाग) की अधिसूचना सं. का. आ. 2054 तारीख 16 अप्रैल, 1983 द्वारा उस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट परिच्छेद की 900.00 एकड़ या 364.21 हेक्टेयर (अनुमानित) भूमि में कोयले का पूर्वेक्षण करने के आपके आशय की सूचना दी थी ;

और केन्द्रीय सरकार का समाधान हो गया है कि उक्त भूमि से कोयला अभिप्राप्य है;

अतः, केन्द्रीय सरकार, उक्त अधिनियम की धारा 7 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, इससे संलग्न अनुसूची में वर्णित 900.00 एकड़ (अनुमानित) या 364.21 हेक्टेयर (अनुमानित) माप की भूमि का अर्जन करने के अपने आशय की सूचना देती है।

टिप्पण : 1. इस अधिसूचना के अधीन आने वाले रेखांक का नदीक्षण उपायुक्त, राँची (बिहार) के कार्यालय में या कोयला नियंत्रक, 1, काउंसिल हाउस स्ट्रीट, कलकत्ता-1 के कार्यालय में अथवा सेन्ट्रल कोलफील्ड्स लिमिटेड (राजस्व अनुभाग) दरभंगा हाउस राँची (बिहार) के कार्यालय में किया जा सकता है।

टिप्पण : 2. कोयला धारक क्षेत्र (अर्जन और विकास) अधिनियम, 1957 (1957 का 20) की धारा 8 के उप-बन्धों की ओर ध्यान आकृष्ट किया जाता है जिसमें निम्न-लिखित उपबन्धित है—

“8(1) कोई व्यक्ति जो किसी भूमि में जिसकी बाबत धारा 7 के अधीन अधिसूचना निकाली गई है, हितबद्ध अधिसूचना के निकाले जाने से तीस दिन के भीतर सम्पूर्ण भूमि या उसके किसी भाग या ऐसी भूमि में या उस पर.. किन्हीं अधिकारों का अर्जन किए जाने के बारे में आपत्ति कर सकेगा।

स्पष्टीकरण : इस धारा के अर्थान्तर्गत यह आपत्ति नहीं मानी जाएगी कि कोई व्यक्ति किसी भूमि में कोयला उत्पादन के लिए स्वयं खनन संक्रियाएं करनी चाहता है और ऐसी संक्रियाएं केन्द्रीय सरकार या किसी अन्य व्यक्ति को नहीं करनी चाहिए।

(2) उपधारा (1) के अधीन प्रत्येक आपत्ति सक्षम प्राधिकारी को लिखित रूप में की जाएगी और सक्षम प्राधिकारी आपत्तिकर्ता को स्वयं सुने जाने का या विधि व्यवसायी द्वारा सुनवाई का अवसर देगा और ऐसी सभी आपत्तियों को सुनने के पश्चात् और ऐसी अतिरिक्त जाँच, यदि कोई हो, करने के पश्चात् जो वह आवश्यक समझता है वह या तो धारा 7 की उपधारा (1) के अधीन अधिसूचित भूमि के या ऐसी भूमि में या उस पर के अधिकारों के संबंध में एक रिपोर्ट या ऐसी भूमि के विभिन्न टुकड़ों या ऐसी भूमि में या उस पर के अधिकारों के संबंध में आपत्तियों पर अपनी सिफारिशों और उसके द्वारा की गई कार्यवाही के अभिलेख

सहित विभिन्न रिपोर्टें केन्द्रीय सरकार को उसके विनिश्चय के लिए देगा।

(3) इस धारा के प्रयोजनों के लिए वह व्यक्ति किसी भूमि में हितबद्ध समझा जाएगा जो प्रतिकर में हित का दावा करने का हकदार होता यदि भूमि या ऐसी भूमि में या उस पर अधिकार इस अधिनियम के अधीन अर्जित कर लिए जाते।”

टिप्पण : 3. केन्द्रीय सरकार ने, कोयला नियंत्रक, 1, काउंसिल हाउस स्ट्रीट, कलकत्ता को उक्त अधिनियम के अधीन सक्षम प्राधिकारी नियुक्त किया है।

अनुसूची

पिपरवार विस्तार प्लॉक

उत्तरी करणपुरा कोयला क्षेत्र

डाइंग सं. राजस्व/29/84 तारीख 28-1-1984

(जिसमें अर्जित की जाने वाली भूमि दर्शित की गई है)

सभी अधिकार

क्र. सं.	ग्राम	थाना	थाना संख्यांक	जिला	क्षेत्र	टिप्प- णियाँ
1.	किच्छो	ठंडवा	78/235	हजारी- बाग	358.94	भाग
2.	पिपरवार	"	80/237	"	86.35	भाग या मंगरडाहा
3.	बिजैन	"	83/240	"	222.86	भाग
4.	सिदालु	"	84/241	"	64.00	भाग
5.	बेन्ती	"	97/254	"	167.85	भाग

कुल क्षेत्र 900.00 एकड़

लगभग

या 364.21 हेक्टेयर

लगभग

ग्राम किच्छो में अर्जित किए जाने वाले प्लॉट संख्यांक:

1 (भाग), 2 (भाग), 5 (भाग), 6, 7, 8 (भाग), 31(भाग), 32, 33, 34 (भाग), 56 (भाग), 59 (भाग), 60 (भाग), 61 से 72, 73 (भाग), 74 (भाग), 75 (भाग), 134 (भाग), 137 (भाग), 138 (भाग), 139 (भाग), 140, 141 (भाग), 142 (भाग), 144 (भाग), 145 (भाग), 146, 147, 148 (भाग), 149, 151 (भाग), 152 (भाग), 153 (भाग), 154 से 165, 166 (भाग), 167, 168, 169, 170 (भाग), 171 (भाग), 175 (भाग), 176, 177 (भाग), 203 (भाग), 222 (भाग), 223, 224, 225 (भाग), 227 (भाग), 228 से 241, 242 (भाग), 243 (भाग), 244 (भाग), 246 से 282, 283 (भाग),

284 से 290, 291 (भाग), 292 (भाग), 294 (भाग)
295 से 305, 306 (भाग), 320 (भाग), 321 से
324, 325 (भाग), 329 (भाग), 330 से 353, 354
(भाग), 356 (भाग), 357, 361 (भाग), 392 (भाग),
534 (भाग), 536 (भाग), 537 (भाग), 558 (भाग),
559 (भाग), 633 (भाग), 643 (भाग), 648 (भाग),
653 (भाग), 654 से 660, 662 (भाग), और 663
(भाग).

ग्राम पिपरवार या मंगरडाहा में अजित किए जाने वाले
प्लॉट संख्यांक :

1, 2 (भाग), 14 (भाग), 15 (भाग), 16 से 21
और 22 (भाग),

ग्राम बिजैन में अजित किए जाने वाले प्लॉट संख्यांक :

265 (भाग), 266 से 277, 278 (भाग), 279
(भाग), 280 से 294, 338, 340 और 341.

ग्राम सिदालु में अजित किए जाने वाले प्लॉट संख्यांक :

4 (भाग), 127 (भाग), 142 (भाग), 144
(भाग), 157 (भाग), 158 (भाग), 160 (भाग),
161, 162, 163 (भाग), 164 (भाग), 165 (भाग),
169 (भाग), 170, 171 (भाग), 172, 173, 174
(भाग), 175 (भाग), 176, 177, 178 (भाग), 179
से 183, 184 (भाग), 185 (भाग), 187 और 188
(भाग).

ग्राम बेन्ती में अजित किए जाने वाले प्लॉट संख्यांक :

1 से 8, 9 (भाग), 10 से 18, 19 (भाग), 20
(भाग), 21 (भाग), 29 से 32, 33 (भाग), 34
(भाग), 35, 36, (भाग), 45 (भाग), 52 (भाग),
72 (भाग), और 647 (भाग).

सीमा वर्णन :

क-ख-ग रेखा सिदालु ग्राम में सारेखा नाला में प्लॉट संख्यांक
4, 188, 163, 160, 158, 157, 174, 175,
144, 142, 185, 127, और 185 तथा प्लॉट
संख्यांक 119 की भागतः पूर्वी सीमा से गुजरती है
और तब बिजैन ग्राम में प्लॉट संख्यांक 265 से
गुजरती है, तत्पश्चात्, नाले की केन्द्रीय रेखा के इस
भाग के साथ साथ जाती है जो बिजैन और बेन्ती
तथा कुटकी खुर्द व बेन्ती ग्रामों की सम्मिलित
सीमा है तथा बिन्दु "ग" पर मिलती है।

ग-घ-ङ रेखा बेन्ती ग्राम में प्लॉट संख्यांक 72, 19, 20,
21, 19, 45, 33, 34, 36, 19, 52, 9 और
647 में से होकर जाती है, फिर ग्राम बिजैन में
प्लॉट संख्यांक 279 और 278 से होकर जाती है
और तब ग्राम पिपरवार या मंगरडाहा में प्लॉट
संख्यांक 2, 15, 14, और 22 में से गुजरती है,
ग्राम किच्छो (जो कोयला अधिनियम की धारा 9

(1) के अधीन अजित पिपरवार ब्लाक की
सम्मिलित सीमा है) में प्लॉट संख्यांक 1, 8, 31,
170, 171, 166, 175, 177, 244, 243,
203, 222, 225, 227, 306, 329, 325,
320, 559, 558, 537, 633, 643, 648,
653, 662, और 663 में से होकर जाती है
तथा बिन्दु "ड." पर मिलती है।

ड.-च रेखा दामोदर नदी की केन्द्रीय रेखा के उस भाग के
साथ-साथ जाती है जो कोरीगाय और किच्छो ग्रामों
का सम्मिलित सीमा के साथ-साथ जाती है और
बिन्दु "च" पर मिलती है।

च-छ रेखा ग्राम किच्छो में प्लॉट संख्यांक 534, 536,
537, 558, 392, 354, 356, 392, 361,
294, 291, 292, 283, 134, 238, 137,
138, 137, 139, 141, 142, 145, 144,
148, 153, 152, 151, 73, 74, 75, 59,
60, 56, 31, 34, 5 और 2 में से होकर जाती
है और बिन्दु "छ" पर मिलती है।

छ-ज रेखा, नाला की केन्द्रीय रेखा के उस भाग के साथ-
साथ जाता है जो पिपरवार या मंगरडाहा और
बहेरा, पिपरवार या मंगरडाहा और कानोडा बिजैन
और कनोडा ग्रामों की सम्मिलित सीमा है तथा
बिजैन और राजघर ग्रामों की सम्मिलित सीमा के
भी साथ-साथ जाती है और बिन्दु "ज" पर
मिलती है।

ज-क रेखा, सिदालु ग्राम में प्लॉट संख्यांक 185, 184,
178, 185, 171, 169, 163, 164, 165
और 4 से होकर जाती है और आरम्भिक बिन्दु
"क" पर मिलती है।

[सं. 43019/6/84-सो.ए]

समय सिंह, अवर सचिव

MINISTRY OF ENERGY

(Department of Coal)

New Delhi, the 10th October, 1984

S.O. 3356.—Whereas by the notification of the Govern-
ment of India in the Ministry of Energy (Department of
Coal) No. S.O. 2054 dated the 16th April, 1983, issued under
sub-section (1) of section 4 of the Coal Bearing Areas (Ac-
quisition and Development) Act, 1957 (20 of 1957), the
Central Government gave notice of its intention to prospect
for coal in 900.00 acres (approximately) or 364.21 hectares
(approximately) of the lands in the locality specified in the
Schedule appended to that notification;

And whereas the Central Government is satisfied that coal
is obtainable of the said lands;

Now, therefore, in exercise of the powers conferred by
sub-section (1) of section 7 of the said Act, the Central
Government hereby gives notice of its intention to acquire
the lands measuring 900.00 acres (approximately) or 364.21
hectares (approximately) described in the schedule appended
hereto;

NOTE 1.—The plan of the area covered by this notification may be inspected in the Office of the Deputy Commissioner, Ranchi, (Bihar) or in the Office of the Coal Controller 1, Council House Street, Calcutta-1 or in the Office of the Central Coalfields Limited (Revenue Section), Darbhanga House, Ranchi (Bihar).

NOTE 2.—Attention is hereby invited to the provisions of section 8 of the Coal Bearing Areas (Acquisition and Development) Act, 1957, (20 of 1957), which provides as follows :—

"8(1) Any person interested in any land in respect of which a notification under section 7 has been issued may, within thirty days of the issue of the notification object to the acquisition of the whole or any part of the land of any rights in or over such land.

Explanation : It shall not be an objection within the meaning of this section for any person to say that he himself desires to undertake mining operations in the land for the production of coal and that such operations should not be undertaken by the Central Government or by any other person.

(2) Every objection under sub-section (1) shall be made to the competent authority in writing, and the competent authority shall give the objector an opportunity of being heard either in person or by a legal practitioner and shall, after hearing all such objections and after making such further inquiry, if any, as he thinks necessary, either make a report in respect of the land which has been notified under sub-section (1) of section 7 or of rights in or over such land, or make different report in respect of different parcels of such land or of rights in or over such land, to the Central Government, containing his recommendations on the objections, together with the record of the proceedings held by him, for the decision of that Government.

(3) For the purposes of this section, a person shall be deemed to be interested in land who would be entitled to claim an interest in compensation if the land or any rights in or over such land were acquired under this Act".

NOTE 3.—The Coal Controller, 1, Council House Street, Calcutta, has been appointed by the Central Government as the competent authority under the Act.

SCHEDULE

Piparwar Extension—Block

(North Karanpura Coalfield)

Org. No. Rev/29/84.

Dated:—28-1-1984.

(Showing lands to be acquired)

All Rights

Serial number	Village	Thana	Thana number	District	Area	Remarks
1.	Kichto	Tandwa	78/235	Hazari-	358.94	part
2.	Piparwar or Mangardaha	"	80/237	bagh	86.35	"
3.	Bijain	"	83/240	"	222.86	"
4.	Sidalu	"	84/241	"	64.00	"
5.	Benti	"	97/254	"	167.85	"
Total area:—900.00 acres (approximately)						
or 364.21 hectares (approximately)						

Plot numbers to be acquired in village Kichto:—

1(Part), 2(Part), 5(Part), 6, 7, 8(Part), 31(Part), 32, 33, 34(Part), 56(Part), 59(Part), 60(Part), 61 to 72, 73(Part), 74(Part), 75(Part),

134(Part), 137(Part), 138(Part), 139(Part), 140, 141(Part), 142(Part), 144(Part), 145(Part), 146, 147, 148(Part), 149, 151(Part), 152(Part), 153(Part), 154 to 165, 166(Part), 167, 168, 169, 170(Part), 171(Part), 175(Part), 176, 177(Part), 203(Part), 222(Part), 223, 224, 225(Part), 227(Part), 228 to 241, 242(Part), 243(Part), 244(Part), 246 to 282, 283(Part), 284 to 290, 291(Part), 292(Part), 294(Part), 295 to 305 306(Part), 320(Part), 321 to 324, 325(Part), 329(Part), 330 to 353, 354(Part), 356(Part), 357, 361(Part), 392(Part), 534(Part), 536(Part), 537(Part), 558(Part), 559(Part), 633(Part), 643(Part), 648(Part), 653(Part), 654 to 660, 662(Part), & 663(Part).

Plot numbers to be acquired in village Piperwar or Mangardaha : 1, 2(Part), 14(Part), 15(Part), 16 to 21 and 22(Part).

Plot numbers to be acquired in village Bijain :—

265(Part), 266 to 277, 278(Part), 279(Part), 280 to 294, 338, 340 & 341.

Plot numbers to be acquired in village Sidalu :—

4(Part), 127(Part), 142(Part), 144(Part), 157(Part), 158(Part), 160(Part), 161, 162, 163(Part), 164(Part), 165(Part), 169(Part), 170, 171(Part), 172, 173, 174(Part), 175(Part), 176, 177, 178(Part), 179 to 183, 184(Part), 185(Part), 187 & 188(Part).

Plot numbers to be acquired in village Benti :—

1 to 8, 9(Part), 10 to 18, 19(Part), 20(Part), 21(Part), 29 to 32, 33(Part), 34(Part), 35, 36(Part), 45(Part), 52(Part), 72(Part), & 647(Part).

Boundary description :—

A-B-C lines pass through plot numbers 4, 188, 163, 160, 158, 157, 174, 175, 144, 142, 185, 127 and 185 and part eastern boundary of plot number 119 in Sarewa Nalla in village Sidalu then through plot number 265 in village Bijain, then passes along part Central line of the Nalla which forms common boundary of villages Bijain and Benti and Kutki khurd and Benti and meets at point 'C'.

C-D-E- lines pass through plot numbers 72, 19, 20, 21, 19, 45, 33, 34, 36, 19, 52, 9 and 647 in village Benti through Plot numbers 279 and 278 in village Bijain, through plot numbers 2, 15, 14 and 22 in village Piperwar or Mangardaha, through plot numbers 1, 8, 31, 170, 171, 166, 175, 177, 244, 243, 242, 203, 222, 225, 227, 306, 329, 325, 320, 559, 558, 537, 633, 643, 648, 653, 662 and 663 in village Kichto (which forms part common boundary of Piperwar block acquired u/s 9(1) of the Coal Act) and meets at point 'E'.

E-F line passes along part Central line of Damodar River which forms common boundary of village Korigara and Kichto and meets at point 'F'.

F-G line passes through plot numbers 534, 537, 558, 392, 354, 356, 392 361, 294, 291, 292, 283, 134, 238, 137, 138, 137, 139, 141, 142, 144, 145, 144, 148, 153, 152, 151,, 73, 74, 75, 59, 60, 65, 31, 34, 5 & 2 in village Kichto and meets at point 'G'.

G-H line passes along part Central line of the Nala (which forms common boundary of villages Piparwar or Mangardaha and Bahera, Piparwar or Mangardaha and Kanauda, Bijain and Kanauda, and also along common boundary of villages Bijain and Rajdhar and meets at point 'H'.

H-A line passes through plot numbers 185, 184, 178, 185, 171, 169, 163, 164, 165 and 4 in village Sidalu and meets at starting point 'A'.

[No. 43019/6/84-CA]

SAMAY SINGH, Under Secy.

कृषि मंत्रालय

(कृषि और सहकारिता विभाग)

नई दिल्ली, 26 सितम्बर, 1984

का.प्रा. 3357:—केन्द्रीय सरकार, राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम, 1976 के नियम 10 के उप नियम (4) के अनुसरण में, कृषि मंत्रालय (कृषि और सहकारिता विभाग) के निम्नलिखित कार्यालयों को अधिसूचित करती है, जिनके कर्मचारियों ने हिन्दी का कार्य-साधक ज्ञान प्राप्त कर लिया है:—

1. भारतीय राष्ट्रीय कृषि सहकारी विपणन संघ भण्डित, सपना बिल्डिंग, 54 ईस्ट आफ कैलाश, नई दिल्ली-110065
2. केन्द्रीय कृषि मशीनरी प्रशिक्षण एवं परीक्षण संस्थान, ट्रैक्टर नगर, बुदनी (मध्य प्रदेश)।

[संख्या 3-11/178-हिन्दी नीति]

राजेन्द्र प्रसाद गुप्त, निदेशक (राजभाषा)

MINISTRY OF AGRICULTURE

(Deptt. of Agri. & Coopn.)

New Delhi, the 21st September, 1984

S.O. 3357.—In pursuance of sub-rule (4) of rule 10 of the Official Language (use for official purposes of the Union) Rules, 1976, the Central Government hereby notifies the following offices of the Ministry of Agriculture (Deptt. of Agriculture & Cooperation), the staff of which have acquired working knowledge of Hindi:—

1. National Agricultural Co-operative Marketing Federation of India Ltd., Sapna Building, 54, East of Kailash, New Delhi-110065.
2. Central Farm Machinery Training & Testing Institute, Tractor Nagar, Budni (M.P.):

[No. 3-11/78-Hindi Neeti]

R. P. GUPTA, Director (Official Language)

नौवहन और परिवहन मंत्रालय

(परिवहन पक्ष)

नई दिल्ली, 8 अक्टूबर, 1984

का. प्रा. 3358:—चूंकि, श्री एस. पासुराम ने, जिन्हें भारत सरकार, नौवहन और परिवहन मंत्रालय (परिवहन पक्ष) की अधिसूचना सं.क.प्रा. 2482 दिनांक 26-6-82 के माध्यम से, विशाखापत्तनम डॉक लेबर बोर्ड का सदस्य नियुक्त किया गया था, गोदी श्रमिक (रोजगार विनियमन) नियम, 1962 के नियम 4, उपनियम (3) के तहत, अपने पद से त्यागपत्र दे दिया है,

और चूंकि उक्त सदस्य के त्यागपत्र देने से उक्त डॉक लेबर बोर्ड में स्थान रिक्त हो गया है

अतः अब, केन्द्रीय सरकार उक्त नियमों के नियम 4 के उपबन्धों के अनुपालन में, उक्त रिक्ति को अधिसूचित करती है।

[फा.सं. एलडीवी/6/84-यूएस (एल)]

बी. शंकरलिंगम, उप सचिव

MINISTRY OF SHIPPING AND TRANSPORT

(Transport Wing)

New Delhi, the 8th October, 1984

S.O. 3358.—Whereas Shri S. Parasuram, who was appointed as a member of the Vishakhapatnam Dock Labour Board by the Notification of the Government of India in the Ministry of Shipping and Transport (Transport Wing), No. S.O. 2482 dated 26-6-82, has resigned his office under sub-rule (3) of rule 4 of Dock Workers (Regulation of Employment) Rules, 1962;

And whereas a vacancy has occurred in the said Dock Labour Board by the resignation of the said member;

Now, therefore, in pursuance of the provisions of rule 4 of the said rules, the Central Government hereby notifies the said vacancy.

[F. No. LDV/6/84-US(L)]

V. SANKARALINGAM, Dy. Secy.

सूचना और प्रसारण मंत्रालय

नई दिल्ली, 12 अक्टूबर, 1984

का.प्रा. 3359:—श्री टी. सुब्बरामी रेड्डी की 19-9-84 से केन्द्रीय फिल्म प्रमाणन बोर्ड के सदस्य के रूप में नियुक्ति हो जाने पर वे तत्काल से उक्त बोर्ड के मद्रास सलाहकर पैनल के सदस्य नहीं रहेंगे।

[फाइल संख्या 811/1/83-एफ (सी)]

MINISTRY OF INFORMATION AND BROADCASTING

New Delhi, the 12th October, 1984

S.O. 3359.—Consequent on his appointment as a member of the Board of Film Certification w.e.f. 19-9-1984, Shri T. Subharami Reddy Shall cease to be a member of the Madras Advisory Panel of the said Board with immediate effect.

[File No. 811/1/83-F(C)]

शुद्धिपत्र

का.प्रा. 3360:—केन्द्रीय फिल्म प्रमाणन बोर्ड के सदस्यों की नियुक्ति से संबंधित 11-5-84 की अधिसूचना संख्या 816/16/83-एफ (सी.) में, क्रम संख्या 2, 6 और 7 के सम्मुख उल्लिखित श्रीमती दुर्गा खोटे, श्री जी. कस्तूरी और श्री अकिलन के नामों को हटा दिया जायेगा और क्रम संख्या 5 के सम्मुख उल्लिखित श्री एस. श्रीधर के नाम के स्थान पर “श्री सी.वी. श्रीधर” का नाम प्रतिस्थापित किया जायेगा।

[फाइल सं. 811/11/83-एफ (सी)]

के.एस. वैकटरामन, अवर सचिव

CORRIGENDUM

S.O. 3360.—In the Notification No. 1/11/83-F(C) dated 11-5-84 regarding appointment of members of the Board of Film Certification, the names of Smt Durga Khote Shri G. Kasturi and Shri Akilan appearing at S. Nos. 2, 6 and 7 shall be deleted and for the name at S. No. 5 viz. Shri Sreedhar, the name "Shri C. V. Sreedhar" shall be substituted.

[File No. 811/11/83-F(C)]

K. S. VENKATARAMAN, Under Secy.

श्रम और पुनर्वास मंत्रालय

(पुनर्वास विभाग)

नई दिल्ली, 8 अक्टूबर, 1984

का.आ. 3361:—विस्थापित व्यक्ति (प्रतिकर तथा पुनर्वास) अधिनियम, 1954 (1954 का 44) की धारा 34 की उप धारा (2) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, मुख्य बन्दोबस्त आयुक्त इसके द्वारा पुनर्वास विभाग में अवर सचिव, श्री डी.डी. इंगटी को, जो 8 अक्टूबर, 1984 की समसंख्यक अधिसूचना द्वारा बन्दोबस्त आयुक्त नियुक्त किए गए हैं, उक्त अधिनियम की धारा 23 और 24 के अन्तर्गत अपील सुनने और पुनर्विचार प्रयोजनार्थ, इन धाराओं की शक्तियां सौंपते हैं।

2. इससे इस विभाग की 17 जनवरी, 1984 की अधिसूचना संख्या-1(3)/वि.से./83-एस.एस. II(बी) का अतिक्रमण किया जाता है।

[संख्या-1(2)/वि.से./84-एस-एस. II(बी)]

ए.के. मुखर्जी, मुख्य बन्दोबस्त आयुक्त

MINISTRY OF LABOUR & REHABILITATION

(Department of Rehabilitation)

New Delhi, the 8th October, 1984

S.O. 3361.—In exercise of the powers conferred by sub-section (2) of Section 34 of the Displaced Persons (Compensation & Rehabilitation) Act, 1954 (44 of 1954), the Chief Settlement Commissioner hereby delegates to Shri D. D. Ingty, Under Secretary in the Department of Rehabilitation who has been appointed as Settlement Commissioner vide Notification of even number dated the 8th October, 1984 the powers under Sections 23 and 24 of the said Act for the purpose of hearing appeals and revisions under these Sections.

2. This supersedes this Department's Notification No. 1(3)/Spl Cell/83-SS-II(B) dated the 17th January, 1984.

[No. 1(2)/Spl Cell/84-SS-II(B)]

A. K. MUKHERJEE, Chief Settlement Commissioner

का.आ. 3362:—विस्थापित व्यक्ति (प्रतिकर तथा पुनर्वास) अधिनियम, 1954 (1954 का 44) की धारा 3 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार इसके द्वारा पुनर्वास विभाग में अवर सचिव, श्री डी. डी. इंगटी को उक्त अधिनियम के द्वारा अथवा उसके अधीन

बन्दोबस्त आयुक्त को सौंपे गए कार्यों के निष्पादन हेतु, बन्दोबस्त आयुक्त नियुक्त करती है।

2. इसके द्वारा विभाग की दिनांक 17-1-84 की अधिसूचना संख्या 1 (3) वि. सेल/83 एस.एस. II(क) का अतिक्रमण किया जाता है।

[संख्या-1(2) वि. सेल/84-एस.एस. II(क)]

के. सी. गेहानी, उप सचिव

S.O. 3362.—In exercise of the powers conferred by sub-section (1) of Section 3 of the Displaced Persons (Compensation and Rehabilitation) Act, 1954 (No 44 of 1954), the Central Government hereby appoints Shri D. D. Ingty, Under Secretary in the Department of Rehabilitation, as Settlement Commissioner, for the purpose of performing, the functions assigned to a Settlement Commissioner by or under the said Act.

2. This supersedes this Department's notification No. 1(3)/Spl. Cell/83-SS. II(A) dated the 17th January, 1984.

[No. 1(2)/Spl. Cell/84-SS.II(A)]

K. C. GEHANI, Dy. Secy.

New Delhi, the 9th October, 1984

S.O. 3363.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal No. 3, Dhanbad in the industrial dispute between the employers in relation to the management of New Dharmaband Colliery of M/s. Bharat Coking Coal Ltd., and their workmen, which was received by the Central Government on the 1st October, 1984:—

BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT NO. 3, DHANBAD

Reference No. 35/83

PRESENT:

Shri J. N. Singh, Presiding Officer.

PARTIES:

Employers in relation to the Management of New Dharmaband Colliery of M/s. Bharat Coking Coal Ltd.;

AND

Their Workmen

APPEARANCES:

For the Employers—Shri G Prasad, Advocate.

For the Workman—Shri D. Mukherjee, Advocate.

INDUSTRY: Coal.

STATE: Bihar.

Dated, the 20th September, 1984

AWARD

The Government of India in the Ministry of Labour in exercise of the powers conferred on them U/s. 10(1)(d) of the Industrial Disputes Act, 1947 (14 of 1947) has referred the dispute to this Tribunal for adjudication under Order No. L-20012(150)/83-D.III(A) dated the 21st September, 1983.

SCHEDULE

"Whether the demand of the workmen of New Dharmaband Colliery of M/s. Bharat Coking Coal Limited,

for reinstatement of Shri Shankar Nonia, Electrical Apprentice is justified? If so, to what relief is the said workman entitled and from what date?"

2. The case of the workman is that he was originally appointed in Sudradh Colliery as an unpaid Electrical Apprentice by the erstwhile employer on 5-8-72. After take over the said colliery along with other non-coking coal mines the concerned workman Sri Shankar Nonia along with other workmen of the said colliery were transferred to East Sinidih Colliery of M/s. Bharat Coking Coal Ltd. It is submitted that the concerned workman had worked in East Sinidih Colliery as regular employee continuously and had put in more than 240 days attendance during the calendar year 1973. He was, however, again transferred to New Dharmaband Colliery by office Order dated 25-3-75 and he also joined there but the management stopped him from duty with effect from August, 1975 without assigning any reason and without complying with the provisions of Section 25F of the Industrial Disputes Act.

3. It is submitted that the said action of the management is illegal and inspite of representations filed by him he was not allowed to resume his duty. Ultimately he raised an industrial dispute which resulted in the present Reference.

4. It is admitted by the management that the concerned workman was appointed as an unpaid Apprentice by the erstwhile owner on 5-8-72 and he continued to work as such till he was transferred to Dharmaband Colliery on 25-3-75. It is, however, the case of the management that the concerned workman reported for duty at Dharmaband Colliery on 16-6-75 and thereafter he absented from duty and abandoned his employment. It is also their defence that the present dispute has been raised after a long gap of about 8 years and it is a state claim. This the management has denied the demand of the workman on the ground that he had abandoned his service and that the dispute has been raised after a long lapse of years.

5. The point for consideration is as to whether the demand of the workman for reinstatement of Sri Shankar Nonia, Electrical Apprentice is justified. If so to what relief is he entitled and from what date.

6. From the pleadings of the parties it is clear that the management has taken the plea of abandonment of employment. It may, however, be stated that in the written statement the management has clearly admitted that the concerned workman reported for duty for the first time on 16-5-75 after his transfer and thereafter he absented and abandoned his employment. Before the Conciliation Officer, however, the management's case was that the concerned workman never worked at Dharmaband Colliery (Ext. W-3). But this plea is not correct. In view of the written statement filed by the management. The concerned workman has filed his appointment letter Ext. W-1 which shows that he was appointed at Pure Sudradh Colliery as an Electrical Apprentice and he was to receive Rs. 100 per month as his pay six months thereafter. Ext. W-2 is a letter dated 25-3-75 which shows that the concerned workman along with one Sri P. K. Patra were transferred to Dharmaband Colliery with immediate effect. The case of the workman is that on the basis of this transfer he joined Dharmaband Colliery and worked there till he was stopped from work with effect from the date mentioned in his written statement. The workman in his evidence has stated that after appointment in Pure Sudradh Colliery he was transferred to East Sinidih Colliery and where he worked for some time and thereafter he was transferred to Dharmaband Colliery. It is also stated by him that he worked as an Electrical Helper. His case is supported by MW-2 a Fan Operator working in East Sinidih Colliery. MW-2 who is the Sr. Personnel Officer of Dharmaband Colliery has stated in his cross-examination that he has not heard the name of East Sinidih Colliery. But MW-3 who is Supervisor in Joidih Colliery and who was transferred along with the concerned workman to Dharmaband Colliery in the year 1975 has stated that from Pure Sudradh Colliery he along with the concerned workman were transferred to East Sinidih Colliery and from there they were transferred to Dharmaband Colliery. MW-1 is an Electrical Supervisor in Dharmaband Colliery according to whom none of the name of Shankar Nonia ever worked in Dharmaband Colliery.

But it is contrary to the pleadings of the management as the management in that pleadings has admitted that on transfer Sri Shankar Nonia joined Dharmaband Colliery but later on absented from duty. MW-2 in his chief has stated that from the record it appears that Shankar Nonia had once come to Dharmaband Colliery but he did not work there. It is not the case of the management in their pleadings that Shankar Nonia the concerned workman never worked in Dharmaband Colliery. This very witness in para 9 of his cross-examination has stated that there is one letter from the Manager, Dharmaband Colliery to the Sub-Area Manager informing that Shankar Nonia had not reported for duty and that the said letter would indicate that he reported for duty on 16-5-75 but did not work. The said letter has not been filed by the management for reasons best known to them.

7. From all the above evidence and documents it is clear that the management has taken conflicting pleas and has given conflicting evidence. The fact however remains that he was transferred from Sinidih Colliery to Dharmaband Colliery where he joined admittedly.

8. During the course of argument it was urged on behalf of the management that the concerned workman was never an employee of Dharmaband Colliery. But it cannot be believed in view of the admission of the management that in fact on transfer the concerned had joined Dharmaband Colliery. It is not believable as to why after joining Dharmaband Colliery the concerned workman would not have worked there even for a single day. Besides it, the Form B register was the most authentic document to show whether the concerned workman was treated as an employee of Dharmaband Colliery or not. But the said register has not been filed nor any explanation has been given for not filing the same. Moreover, it is the definite case of the workman that he was regular employee at East Sinidih Colliery before his transfer to Dharmaband Colliery and in that case if he had abandoned his service the proper course for the management was to issue notice to him. Moreover, if he was a regular employee and even if it was a case of abandonment of service then also a notice should have been issued to him and if his service was to be terminated then the provisions of Section 25F of the I.D. Act should have been followed. But this also has not been done.

9. The management, however, has filed only one document viz. Ext. M-1 which is a reply filed by the union on behalf of the concerned workman during conciliation proceeding wherein it is stated that Shankar Nonia was transferred to Dharmaband Colliery in July 1975. But this is not very relevant as the transfer letter itself shows that he was transferred in March 1975.

10. Considering the evidence on record, I hold that the concerned workman was an employee in Dharmaband Colliery and he was stopped work with effect from August, 1975 illegally and without any just cause and the demand of the workman for reinstatement by the said colliery is fully justified.

11. The next question is as to from which date he should be reinstated and to what relief he is entitled. The concerned workman was stopped work in 1975. Though he has stated that he made representations but no document has been filed to prove it. The dispute was raised in the year 1983 after lapse of several years but for that along he should not be deprived of his employment in these hard days.

12. Considering all aspects of the matter I hold that the concerned workman is entitled to be reinstated within a month from the date of publication of the award but without any back wages. It is in evidence that he was an Electrical Apprentice but he was working as an Electrical Helper and therefore on reinstatement he will get the wages of an Electrical Helper from the date of his reinstatement.

13. The award is given accordingly.

J. N. SINGH, Presiding Officer
[No. L-20012(150)/83-DIII(A)]

S.O. 3364.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal No. 2, Dhanbad in the industrial dispute between the employers in relation to the management of Khas Kusunda Colliery of M/s. Bharat Coking Coal Limited, Post Office Kusunda, District Dhanbad and their workmen, which was received by the Central Government on the 5th October, 1984.

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD

Reference No. 113 of 1982

In the matter of Industrial Disputes under S. 10(1)(d) of the I.D. Act, 1947

PRESENT:

Shri I. N. Sinha, Presiding Officer.

PARTIES:

Employers in relation to the management of Khas Kusunda Colliery of Messrs. Bharat Coking Coal Limited, Post Office Kusunda, District Dhanbad and their workmen.

APPEARANCES:

On behalf of the employers—Shri G. Prasad, Advocate.

On behalf of the workmen—Shri B. Lal, Advocate and Shri D. K. Verma, Advocate.

STATE: Bihar.

INDUSTRY: Coal.

Dated, Dhanbad, the 28th September, 1984

AWARD

The Government of India in the Ministry of Labour, in exercise of the powers conferred on them under Section 10 (1)(d) of the I.D. Act, 1947, has referred the following dispute to this Tribunal for adjudication under Order No. L-20012(163)/82-D. III (A), dated, the 22nd Sept., 1982.

SCHEDULE

“Whether the action of the management of Khas Kusunda Colliery of Messrs. Bharat Coking Coal Limited, Post Office Kusunda, District Dhanbad in stopping Shri Ram Autar Mahato No. 1 from the 30th March, 1981 and not allowing him to resume his duties was justified? If not to what relief is the workman concerned entitled?”

The case of the management is that the concerned workman Shri Ram Autar Mahato No. 1 had never worked in the colliery before 14-10-80 even as Casual worker and as such there was no question of providing him regular work. He was a badli miner/casual worker and was temporarily allowed to work as miner/loader due to exigency of work. He was not given further employment after 30-3-81. A badli worker cannot claim regular employment and as such the management was not obliged to employ them any further. It is the discretion of the employer to stop casual worker without assigning any reason and without giving prior notice in accordance with the provisions of the Standing Orders. The workman who had previously worked during the years 1973 to 1976 as casual workers were given preference for employment as badli miners/loaders provided that they had worked at least for a minimum period of 75 days in any of the aforesaid calendar years as delisted casual wagon loaders. One Shri Ram Autar Mahato of Santhal Parganas had worked on different occasions during the year 1973 to 1976 and due to some inadvertence his name was recorded in the Bonus Register at two places which caused confusion at the time of employment on 14-10-80 and the name of Ram Autar Mahato was incorrectly mentioned in two serials as Ram Autar Mahato. The concerned workman was not the real Ram Autar Mahato and he was not eligible for employment as he did not fulfil the requisite qualifications. At the time of verification it was found that the concerned workman was not the real Ram Autar Mahato

and he was a man from Dhanbad and as such he was stopped from duty without any notice w.e.f. 30-3-81, as he was only a badli/casual miner. The concerned workman was not the real person whom the employer intended to employ. The action of the management in stopping the concerned workman is fully justified as he was not the genuine Ram Autar Mahato and as such he is entitled to no relief. It is further submitted on behalf of the management that the concerned workman did not raise the dispute with the employer before the demand was placed before the appropriate Government and as such the demand cannot become an industrial dispute under the I.D. Act, 1947.

The case of the workmen is that the concerned workman was formerly working as casual workman and was not provided with work regularly. There was great agitation by the different unions and representatives of the workman to take into employment the workmen who were working for several years as casual workers. It was finally agreed by the management that the workmen who have completed 75 days work during a year will be provided regular employment. The concerned workman was found to be one of such workmen who had put in more than 75 days of work in a particular year and as such he was selected for regular employment. The management published a list of workmen including the concerned workman who had completed 75 days of work in a year and an objection, if any, was invited against their intended employment. No objection was raised in respect of the concerned workman and as such he was given regular employment. Before giving the regular employment, the management required certificate from the B.D.O., Mukhiya and others to prove bonafide and genuineness of the persons being so appointed. The concerned workman produced required certificate and after being satisfied on perusal of the certificate, the management provided employment to the concerned workman. The erstwhile employer used to change the address of the casual workmen preventing them from claiming regularisation in their jobs and the said unfair labour practice continued even after nationalisation of the Coal Mines. At the time of regular employment of the concerned workman, his proper address was recorded in the Register of the management. Subsequently, the management stopped the work of the concerned workman from 30-3-81 on the plea that his address was different in the Bonus Register than the address which was given by the concerned workman at the time he was taken in a regular employment. The concerned workman is the same person who was working since long as a casual worker and he had not given any wrong address and there is no person claiming the job in place of the concerned workman. The action of the management in stopping the work of the concerned workman with effect from 30-3-80 is not justified and he is entitled to remain on job with continuity of service and he is further entitled to full back wages and other benefits.

The main question to be determined in this reference is whether the concerned workman had earlier worked for more than 75 days in a calendar year between 1973 to 1976.

Admittedly the name of the concerned workman was included in the roll of Badli miner/wagon loaders vide Office Order Ext. M-9 dated 17-7-80. It will appear from this Ext. that the concerned workman had got 75 days or more days of attendance during the year 1973 to 1976 and as such his name was included in the roll of badli miners/wagon loader with immediate effect. The concerned workman was medically examined along with others vide Ext. M-10 dated 15-9-80. Ext. M-11 dated 18-9-80 is an Office Order issued under the signature of Manager, Khas Kusunda Colliery which shows that the concerned workman along with others had been sent for basic training for 18 days at Godhur Group training centre. Ext. W-5 is the Office order dated 14-10-80 which shows that the concerned workman along with others were temporarily allowed to work as Miner/Loaders and that the concerned workman was posted to work in 9 seam of Khas Kusunda Colliery. Ext. M-8 is the list of the unlisted wagon loaders who had worked in Khas Kusunda Colliery between the year 1974 to 1976. From Sl. No. 25 and 182 of the said list it will appear that Ram Autar Mahato at Sl. No. 25 had put in 127 days of attendance while Ram Autar at Sl. No. 182 had 89 days of attendance. The fact that the number of attendance of the two Ramautar Mahato are different will show that they are two different persons and not the same person. The parentage and address of neither of the Ramautar Mahato listed in Ext. M-8 are stated in it. This list was prepared by the employers of the

management themselves and it bears the signature of the personnel Officer, Manager and Daya Singh. The said Daya Singh has been examined as MW-1 who is working as Bonus Clerk. He has stated that he was asked to prepare a list of unlisted casual workers who had worked in the years 1974, 1975 and 1976 and that the list Ext. M-8 in his writing. He has admitted that it contains his signature and the signature of the then Personnel Officer Shri R. N. Singh and the Area Manager. In his cross-examination he has stated that he does not recognise either of the Ramautar mentioned in Ext. M-8. He has stated that the Mining Sirdar, Overman and loading clerk may tell about their identification. He has stated that Ext. M-8 has been prepared by him on the basis of Bonus Registers of 1974 to 1976 and that the Bonus Register is prepared on the basis of bills. The bills or the attendance register have not been produced by the management which is expected to be in their possession. It appears, therefore, that the Bonus Register are prepared correctly in accordance with bills. WW-2 is the concerned workman who has stated that he had worked in West Godhūr Colliery for about 10 years. He has stated that formerly he was not regularly employed and that prior to the stopping his work he was taken 6 days work in a week regularly. Ext. W-10 dated 30-3-81 is the letter by which it will appear that the management directed the concerned workman to explain within 3 days time as to why suitable legal action be not taken against him as on verification of the records it was found that his father's name and home address was different from the father's name and address submitted by him in the certificate from Mukhiya and BDO. Admittedly, thereafter the concerned workman was stopped from work with effect from 30-3-81. On the above evidence it will appear that the concerned workman was appointed to work as miner on the basis of the letter issued by the management and that he was stopped from work with effect from 30-3-81 after he had regularly worked for 6 months.

The case of the management is that the concerned workman was stopped from his work as he had not work as loader during the years 1973 to 1976. It is submitted by the management that Ramautar Mahato who had previously worked during the years 1973 to 1976 for more than 75 days was another person belonging to different village and that the concerned workman Ramautar Mahato No. 1 falsely represented himself as the said Ramautar Mahato and had obtained the job. On verification, the management came to know that the concerned workman was not the deal Ramautar and as such he was stopped from work. Ext. M-16 is Form B Register in respect of Badli workers and it is in the writing of MW-2. It will appear from Sl. No. 39 of M-16 that Ramautar Mahato No. 1 son of Jhari Mahato of Kusunda Distt, Dhanbad was working in BCC. Ltd. The entry in Ext. M-16 was made when admittedly, the concerned workman was appointed on 19-9-80. It will appear from the deposition of the concerned workman that WW-2 Ramautar Mahato is the son of Jhari Mahato and he has given the address as is stated in Ext. M-16. It is submitted on behalf of the management that this address of the concerned workman did not tally with the address given by him in the Bonus Register which was prepared between the years 1974 to 1976. Ext. M-1 is the Bonus Register of 1974. At page 27 of the said Bonus Register there is the entry of the name of Ram Autar Mahato District Dumka, Ext. M-3 at page 99 is entry in the Bonus Register of 1976 which deals with one Ramutar Mahato. No parentage and address of Ramutar Mahato is stated in Ext. M-3. Ext. M-4 is an entry at page 180 of the Bonus Register for the year 1980 in which there is entry of the name of Ramautar Mahato No. 1. In Ext. M-5 at page 182 of the said register is the entry in the name of Ramautar Mahato No. 2. Ext. M-4 and M-5 are entries when admittedly the concerned workman and the other Ramutar were working in BCCL. The parentage and address of neither of the two Ramautar is mentioned in Ext. M-4 and M-5 but there is mention of Ramutar Mahato No. 1 and Ramutar Mahato No. 2 in these two exhibits. According to the management actually there was one Ramutar of Dumka who was working in BCCL during 1973 to 1976 and that there was some mistake in preparing the list Ext. M-8 and the name of Ramutar was written at two places. It appears that the said assertion made on behalf of the management is not correct. In the Bonus Register of 1974 Ext. M-1 shows that Ramutar Mahato was of District Dumka whereas Ext. M-7 which is an entry of Bonus Register of 1981 shows that Ramutar Mahato was of Nawadh. Thus it will be clear that there were two Ramutar Mahato one belonging to district Nawadh and other belonging to district Dumka and the case of the management that there was only one Ramutar working in BCCL is not correct.

The management has examined MW-1 Daya Singh who is a Bonus Clerk working in Khas Kusunda Colliery. The Bonus registers have been proved and exhibited by him. He did not identify any of the Ramutar Mahato. According to him the Mining Sirdar, Overman and loading Clerk can tell about their identification. It will also appear from his evidence that in the Bonus Register he had written only the name of Ramutar and that the parentage and address of Ramutar noted in the Bonus Registers are in the writing of some other persons who has not been examined. It will also appear on perusal of the name and address in the exhibited Bonus registers that the name is written in a different ink and handwriting and that the parentage and the address are written in different ink and writing. Although in Ext. M-1 the name and parentage of Ramutar Mahato is stated, in the subsequent register of 1976 in Ext. M-3 the parentage and address of Ramutar is not stated. If the address and parentage of Ramutar was in existence in the Bonus Register of 1974 as stated in Ext. M-1, the said parentage and address must have been stated in Ext. M-3 in the Bonus Register of 1976. It is clear, therefore, that the address and parentage written in Ext. M-1 was subsequent entry and was not written in the regular course of official duties. It is all the more surprising that the management has not been able to produce any witness to state as to how the address in Ext. M-1 was written and who had written it. It is clear therefore that the address in Ext. M-1 was inserted sometime after the year 1976 and that no reliance can be placed on the said insertion of the parentage and address of Ramutar in Ext. M-1. Two reference cases are pending in this Tribunal in respect of two Ramutars. The management states that neither of them is the real Ramutar. It is curious that if there was any other Ramautar why he is not coming forward to claim for his employment. It is apparent therefore that there is no other Ramutar except the two in respect of whom two references are pending. I have already stated above that from the address in Ext. M-1 and M-7 it is clear that there are two Ramutar and as such it appears that two Ramutar in the two Reference cases are the Ramutar who had worked in BCCL. It is stated in the W.S. filed on behalf of the concerned workman that since the time of erstwhile employer, the management used to change the address of the casual workmen to prevent them from claiming regularisation in their jobs and that the said practice was continue in BCCL also. The fact that the parentage and address of Ramutar was entered subsequently shows that the management was still continuing in the habit of changing the address of the casual workmen so that they may not claim any right.

The workmen have examined WW-1 Shri Kumar Arjun Singh who is a State Secretary of Colliery Karamchari Sangh. He knows the concerned workman and the other Ramutar and according to him both of them used to work in Khas Kusunda Colliery as wagon loader since 1973 whenever the management called them to do the work of loading wagons. He has stated that in the consultative committee between the different unions and the management it was decided that the loaders who were working from 1973 to 1976 and were stopped from work after 1976 should be allowed to work, if they had worked as loaders for more than 75 days between 1973 to 1976 and that a circular to this effect was issued by the Management of M/s. BCCL. He has further stated that the attendance of the workmen were verified with reference to the Bonus Registers in accordance with the instructions issued in the Circular and a list was prepared in respect of the workmen who had worked for 75 days between the years 1973 to 1976 and that the names of both the Ramutar were included in this list. He has also stated that the workmen were asked to furnish certificates from Mukhiya and BDO regarding the verification of their names and address and that they were also to file duly attested photographs. He has stated that the concerned workman submitted all the papers required by the management. Ext. M-8 is the list which was prepared by the management, and the same includes the name of two Ramutar. WW-1 has denied that there was any mistake in noting down the name of Ramutar at two places in Ext. M-8. Ramutar No. 1 is the son of Jhari Mahato as stated in the evidence of WW-2. In Ext. W-6 also at Sl. No. 5 there is name of Ramutar Mahato son of Jhari Mahato. Ext. W-7 is the certificate attested by the Mukhiya and BDO which shows that Ramutar Mahato No. 1 was son of Jhari Mahato of District Dhanbad. Thus it will appear that the concerned workman who is son of Jhari Mahato belonged to District Dhanbad. I have discussed above that the parentage and address as stated in the Bonus Register Ext. M-1 cannot be relied

upon. No positive evidence has been led on behalf of the management that the concerned workman had not worked as wagon loader between the years 1973 to 1976. The entry of the name of Ramutar in Ext. M-1 and M-3 will show that there were two Ramutar who were working as wagon loaders in 1974 to 1976 and I hold that the concerned workman Ramutar Mahato No. 1 son of Jhari Mahato had worked previously during 1973 to 1976 as loader for more than 75 days and as such his name was included in Ext. M-8 and he was provided with job as miner.

There are other documents which are not necessary for decision of the case. WW-1, however, has filed counter foil receipts and membership register and certificate of registration of trade union to show that the concerned workman is the member of the Registered trade union which has sponsored his dispute.

In view of the discussion made above I hold that the concerned workman Ramutar Mahato No. 1 was the real Ramutar Mahato No. 1 and had worked continuously for 6 months as miners and as such he is entitled to remain in the job with continuous service and that he should get all the benefits.

In the result, I hold that the action of the management of Khas Kusunda Colliery of M/s. B.C.C. Ltd. in stopping from work the concerned workman Shri Ramutar Mahato No. 1 with effect from 30-3-81 is not justified. The concerned workman is therefore entitled to remain on the job with continuity of service with effect from 30-3-81 with full back wages and consequential benefits.

This is my award.

I. N. SINHA, Presiding Officer
(No. L-20012(163)/82-D. III (A))

New Delhi, the 10th October, 1984

S.O. 3365.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal No. 3, Dhanbad in the industrial dispute between the employers in relation to the management of Barora Colliery of M/s. Bharat Coking Coal Limited, and their workmen, which was received by the Central Government on 1st October, 1984

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT NO. 3, DHANBAD

Reference No. 6/83

PRESENT :

Shri J. N. Singh, Presiding Officer

PARTIES :

Employers in relation to the management of Barora Colliery of M/s. Bharat Coking Coal Ltd., Dhanbad.

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD

PRESENT

Shri I.N. Sinha, Presiding Officer.

Reference No. 14 of 1983

In the matter of Industrial Disputes under S. 10(1)(d) of the I.D. Act, 1947.

PARTIES :

Employers in relation to the management of Tetulia Colliery in Govindpur Area No. III of Messers. Bharat Coking Coal Limited Post Office Sonardih, District Dhanbad and their workmen.

APPEARANCES :

On behalf of the employers

: Shri B. Joshi,
Advocate,

On behalf of the Workmen

: Shri D. Mukherjee,
Secretary, Bihar Colliery Kamgar Union.

STATE : Bihar.

INDUSTRY : Coal.

Dated, Dhanbad, 25th September, 1984.

AND

Their Workman.

APPEARANCES :

For the Employers—Shri B. Joshi, Advocate

For the Workman—None.

INDUSTRY : Coal.

STATE : Bihar.

Dated, the 23rd September, 1984

AWARD

The Government of India in the Ministry of Labour in exercise of the powers conferred on them U/s. 10(1)(d) of the Industrial Disputes Act, 14 of 1947 has referred the dispute to this Tribunal for adjudication under Order No. L-20012(40)/83-D.III(A) dated the 21-st May, 1983.

SCHEDULE

"Whether demand of Smt. Darshani Kamin for reinstatement as Wagon Loader by the management of Barora Colliery of M/s. Bharat Coking Coal Ltd., Dhanbad is justified? If so, to what relief is she entitled?"

2. It appears from the record that when the case became ready several notices were issued to the union to come ready for hearing of the case but they did not care to appear. Even on the last date a fresh registered notice was issued to them but they did not appear although the management's Advocate appeared on almost all the dates and was ready for hearing. It appears that the union has got no interest in the case and there is now no dispute between the parties.

3. Further the terms of Reference would show that the onus lay on the union to prove the demand made by them. As the said onus has not been substantiated hence also there is no dispute between the parties.

4. In such circumstances a 'No Dispute' award is passed.

J. N. SINGH, Presiding Officer.

(No. L-20012(40)/83-D.III(A))

S.O. 3366.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal No. 2, Dhanbad in the industrial dispute between the employers in relation to the management of Tetulia Colliery in Govindpur Area of M/s. Bharat Coking Coal Limited, Post Office Sonardih, District Dhanbad, and their workmen, which was received by the Central Government on the 1st October, 1984.

AWARD

The Government of India in the Ministry of Labour & Rehabilitation, in exercise of the powers conferred on them under Section 10(1) (d) of the I.D. Act/, 1947, has referred the following dispute to this Tribunal for adjudication under Order No. L-20012/204/82/D-III (A), dated, the 8th March, 1983.

SCHEDULE

"Whether the demand of the Workmen of Tetulia Colliery in Govindpur Area No. III of Messrs. Bharat Coking Coal Limited, Post Office Sonardih, District Dhanbad for continued employment of the Workers listed in the Annexure is justified? If so, to what relief are the workers concerned entitled?"

ANNEXURE

Sl. No.	Name	Father's name	Designation
1.	Shri Suraj Nath Siao	S(Shri)	
2.	Shri Ramayan Rewani		
3.	Shri Ajit Das		
4.	Shri Sambhunath Dutta	Lalit Mohan Dutta	Ex S/Picker
5.	Shri Akshay Kr. Mahato	Lachman Mahto	-do-
6.	Shri Utpal Kumar Singh	Shanarain Singh	-do-
7.	Shri Bharat Yadav	Bideshi Yadav	-do-
8.	Shri Rajendra Pathak	Kanhaya Pathak	-do-
9.	Shri Balj Nath Gope	Ramdutta Gope	-do-
10.	Shri Gulab Singh	Churaman Singh	-do-
11.	Shri Bharat Prasad	Dukmi Prasad	-do-
12.	Shri Monoj Kr. Saha	Ganga Sagar Saha	-do-
13.	Shri Binod Yadav	Munilal Yadav	-do-
14.	Shri Satrugnan Chobey	Kanhaya Choubey	S/Picker.
15.	Shri Bhabhai Choudhary	Ramdeo Choudhary	-do-
16.	Shri Tara Pad. Rajwar	Yudisthir Bajwar	-do-
17.	Shri Balj Nath Singh	Rambachan Yadav	-do-
18.	Shri Udai Kr. Yadav	Balkaran Yadav	-do-
19.	Shri Birde Pd.	Kulika Pd.	-do-
20.	Shri Shankar Pandey	Sahdoo Pandey	-do-
21.	Shri Gourishankar Gope	Rambachan Gope	-do-
22.	Shri Ramjiwan Yadav	Manka Yadav	-do-
23.	Shri Gupteswar Choudhary	Rammurat Choudhary	-do-
24.	Shri Komal Kr. Sharma	Biswamitra Sharma	-do-
25.	Shri Jai Nath Mahto	Petigan Mahto	-do-
26.	Shri Sudah Shankar	Bhutnath Biswas	-do-
27.	Shri Lalan Yadav	Rohdakrishna Yadav	-do-
28.	Shri Dineswar Sharma	Kapildeo Sharma	-do-
29.	Shri L. Isahan Mahto	Ramadhar Mahto.	-do-
30.	Shri Bhartendu Pd.	Venketeswar Pd.	-do-
31.	Shri Lalbachan Singh	Harinarain Singh	-do-
32.	Shri Dibaker Mitra	Khudiram Mitra	-do-
33.	Shri Sidheswar Gopal	Dhenu Gope	-do-
34.	Shri Lachminarain Josh	Bholanath Josh	-do-
35.	Shri Hardev Choudhry	Dukhi Choudhry	-do-
36.	Shri Mritunjay Pd. Singh	Mathura Pd. Singh	-do-
37.	Shri Sadhu Yadav	Chandrika Yadav	-do-
38.	Shri Arun Kr. Mitra	Khudiram Mitra	-do-
39.	Shri Sesh Nath Choudhry	Kapildeo Choudhry	-do-
40.	Shri Rajendra Pd.	Deonath Pd.	-do-
41.	Shri Sheshankar Choudhary	Ganga Choudhry	-do-
42.	Shri Ambikare Halder	Rabindra Halder	-do-
43.	Shri Ramoswar Pd. Yadav	Sarai Yadav	-do-
44.	Shri Nirender Narayan Lal	Dipnarain Lal	-do-
45.	Shri Pasupati Yadav	Ramaotar Yadav	-do-
46.	Shri Janardan Pd.	Ramdhan Singh	-do-
47.	Shri Raghunath Choudhary	Nagina Choudhry	-do-
48.	Shri Aditi Narayan Sharma	Ramprakash Singh	-do-
49.	Shri Kesho Mahato	Ramchandra Mahato	-do-
50.	Shri Sunil Kr. Singha	Satnarain Singha	-do-

Sl. No.	Name	Father's name	Designation
51.	Shri Ramshray Yadav	Ramkripal Yadav	S/Picker
52.	SS Malay Kr. Mitra	Sisir Kr. Mitra	-do-
53.	Shri Nandji Pd.	Deven Pd.	-do-
54.	Shri Pursuram Pd.	Rambrich Pd.	-do-
55.	Shri Ramji Yadav	Ramaotar Y. dav	-do-
56.	Shri P. rmanand Pd.	Rambhoro Singh	-do-
57.	Shri Mahender Choudhry	Kashin th Choudhry	-do-
58.	Shri N. dji M. hato	Ramj. nam Mahato	-do-
59.	Shri Ramkailash Yadav	Ramjh. lak Yadav	-do-
60.	Shri K. mla Pd. R. jwar	Sagar Rajwar	-do-
61.	Shri H. reram Yadav	Lakshman Yadav	-do-
62.	Shri Niraj Kr. Sharma	Rajendra Sharma	-do-
63.	Shri R. dhakrishan Choudhry	Mahagu Choudhry	-do-
64.	Shri Rabinder Singh	Surajuth Singh	-do-
65.	Shri Sidhar th Singh	Rambhachan Singh	E/S. Picker.
66.	Shri Ramji Yadav	Kesho Yadav	-do-
67.	Shri Sudarshan Kumar	Anant Ram	-do-
68.	Shri Dinanath Singh	Shyam Bihari Singh	-do-
69.	Shri Akshay Kumar	Lalbachan Yadav	-do-
70.	Shri Rajrangi Yadav	Sukhdoo Y. dav	-do-
71.	Shri Rajendra Pd.	Bhagot Ram Sharma	-do-
72.	Shri Yamuna Yadav	Bikraj Yadav	-do-
73.	Shri Lochender Yadav		-do-
74.	Shri Bindeswar Yadav		-do-
75.	Shri Krishan Pd.		-do-
76.	Shri Bharat Ram	Bano Ram	-do-
77.	Shri Ganesh Pd. Singh		-do-
78.	Shri N. rendra Bhatia		-do-
79.	Shri Parmeswar Ram	Loknath Ram	-do-
80.	Shri Satnarain Mishra		-do-
81.	Shri Ramchandra Ram	Rameswar Ram	-do-
82.	Shri Gopal Rawani	G. Rawani	-do-
83.	Shri Ramaotar Gope		-do-
84.	Shri Sudarshan Ram	Kashi Ram	-do-

2. The case of the workmen is that all the concerned 84 workmen were working as Shale Picker at Tetulia Colliery since 1973. They were engaged to do permanent nature of job but the management arbitrarily kept them as delisted casual. The management stopped them from duty illegally and arbitrarily since 1976 without assigning any reason in violation of the provisions of the Standing Orders. The management of M/s. B.C.C. Ltd. took a policy decision to deploy all delisted casuals who had put in 75 days attendance in a calendar year from 1973 to 1976. In pursuance of the aforesaid policy decision a meeting of the Central Consultative Committee held on 19-12-80 decided for deployment of delisted casuals who had put in more than 75 days attendance during the Calendar Years from 1973 to 1976. In accordance with the said policy decision a large number of delisted casuals were taken into employment by M/s. BCCL. The concerned workmen had all put in more than 75 days attendance during the Calendar years 1973 to 1976. The concerned workmen represented before the management for employment on the basis of the policy decision of the management and thereafter the management verified the attendance of the concerned workmen and directed them to submit photograph duly verified by Mukhiya and B.D.O. The concerned workmen submitted photo and certificates duly verified by Mukhiya and B.D.O. The management also verified the identification and genuineness of the concerned workmen through old employees. The concerned workmen had worked under the supervision of the loading Supervisor and as such they were duly verified and identified by the Head Clerk loading Supervisor of the Colliery. The manager of Tetulia Colliery prepared a list and forwarded it showing the names, Father's name, address, Mukhiya's and B.D.O.'s certificate and attendance of the concerned workmen. Even after the preparation of the said list the management did not allow the concerned workmen to

resume their duties. The action of the management denying employment to the concerned workmen was against the management's own policy decision. When the management did not concede to the request of the concerned workmen the union raised an industrial dispute before the ALC(C) Dhanbad for conciliation but the same ended in failure. Thereafter the present reference was made by the Govt. of India.

3. The case of the management is that the concerned workmen were never employed as Shale Picker and were not delisted casuals. The concerned workmen are complete strangers. They in connivance with the local staff and officials and with the effective help of the union indulged in the corrupt practices and wanted to get employment through back door methods and got a list prepared showing that they had completed more than 75 days attendance in a year. The higher management detected that the concerned workmen were never employed as delisted casuals during the years 1973 to 1976 and as such they were not taken in the employment. The delisted casual workers were not on the rolls of the colliery and their employment was only for the days they worked and they had no right to claim for employment on any date. It was purely an option of the management to employ any one of the delisted casual worker for a day and not to employ them on any other day. They cannot claim for continued employment on any account. The Circular of the management dated 4-8-80 for preparing a pool of workers for employment as and when required basis depends upon the availability of work and the said circular under which delisted casuals are covered has no legal binding and does not confer any right on any delisted casual workers to claim for employment either as a casual worker or a permanent worker. More over the management does not require so many extra hands of casual

workers and as such even if the concerned workmen are able to establish themselves to have worked as delisted casuals they cannot claim to be given any employment.

4. At the initial stage the placement of wagon on the sidings of the different collieries was not regular. On some days a number of wagon used to be placed whereas on other days only a few wagons were placed and as such there was only a meagre strength of wagon loaders. This necessitated engagement of permanent as well as casual wagon loaders and shale pickers. In many of the collieries wagon loading and shale picking jobs used to be executed by contractors workers during the erstwhile management. So far the permanent wagon loaders and shale pickers are concerned, they used to be provided with jobs on all days. So far the casual wagon loaders and shale pickers are concerned they were provided with jobs whenever more wagons used to be placed on the sidings and the loading and shale picking jobs could not be managed by the permanent hands. On some occasions a large number of wagons used to be placed on all the sidings of the colliery which could not be loaded with coal and the shale could not be picked by the permanent and listed casual workers and as such on these days the management used to employ many persons from outside the list of casual workers to complete the wagon loading and shale picking jobs. Such workers who so worked on different dates were treated as delisted casual workers and shale pickers. Their numbers were few and the number of days worked by them were also few. The delisted casuals were never fixed and they did not stick in the colliery. With the improvement in the wagon supply the management decided to increase the strength of permanent wagon loaders and shale pickers. Accordingly, the casual wagon loaders and shale pickers who had put in 240 days attendance in the past calendar years were made permanent. After the said increase the strength of permanent wagon loaders and shale pickers the scope for engagement of casual workers went down and the delisted casual workers were not required to be engaged. The management by its circular dated 4-8-80 got a list prepared of workers for employment as and when required from the delisted casual workers. The concerned workmen taking the advantage of the said circular wanted the names to be included in the list of delisted casuals although they were never employed as delisted casuals. The management denies that the concerned workmen were verified to be genuine workers.

5. The decision of this reference hinges on decision of the fact whether the concerned workmen had worked as delisted shale pickers for more than 75 days in any of the years between 1973 to 1976 and this fact has been tried to be established by the concerned workmen on the basis of the entry of their names in the Bonus Register showing their attendance and payment of Bonus, to them. The case of the management is that the Bonus Register on which the concerned workmen put reliance is a fabricated document which has been brought into existence in collusion with the management's employees and the concerned workmen with their supporters. Thus the first point for determination is whether the concerned workmen had worked for more than 75 days in a year as unlisted shale pickers between 1973 to 1976.

6. Some facts are admitted. The Circular of the management Ext. M-3 is an admitted document which is being relied by both the parties. It is also admitted by the management that a list enclosed with Ext. M-4 dated 13-10-81 was prepared by the Manager of the Tetuliya Colliery. It will show that the names of all the concerned workmen are included in it and it is on the basis of this that the concerned workmen claim that they had put in attendance of more than 75 days attendance in a year between 1973-1976 and as such their names were included in the list by the employees of the management. Although the management accepts that this list was prepared by the manager of Tetuliya Colliery, it is submitted that it was concocted in conspiracy with the employees of BCCI and the concerned workmen. At the last page of the list it will appear that there is signature of Head Clerk and Loading Supervisor, Senior Personnel Officer and the manager. The Head Clerk and the Loading Supervisor have certified that the persons named in the list have been identified by them whose photos are correct and are old workers of the colliery. Thus the certificate shows that the concerned workmen were identified as the persons who had worked in the colliery and the list

further shows the days of attendance of the concerned workmen in the year 1974-75. On perusal of the column total attendance it appears that all the concerned workmen had put in more than 75 days of attendance either in the year 1974-1975. The Senior Personnel Officer has also signed this list and he has noted "Checked the attendance from office records like Form X Register" (Form X Register is the Bonus Register). It will thus appear from the note of the Senior Personnel Officer that the attendance in the list enclosed to Ext. M-4 was checked and verified from the Bonus Register of 1974 and 1975. MW-1 who is working as Dy. Manager has stated that the Colliery Manager forwarded the list Ext. M-4 under his signature. He has further stated that the names of the concerned workmen appear in the Bonus Register. Ext. M16 is the Bonus Register of the year 1974. From page 97 to 143, the names of 47 shale pickers are noted showing that they were paid Bonus for the number of days of attendance noted down in this Ext. M17 is Bonus Register for the year 1975 in which the relevant entry in respect of the concerned workmen are from pages 95 to 141 showing their actual attendance in the different quarters of 1975 and the amount of Bonus paid to them each quarter. It also finds a note of the Labour Enforcement Officer (Central) Katras at page 95, 135 and 141 dated 23-8-76 to show that Ext. M-7 was checked by the Labour Enforcement Officer (C) Katras. In Ext. M-6 there is a note of Labour, Enforcement Officer (Central) Katras dated 26-8-75 at page 97 and also at page 143 which shows that this register was checked. It has been tried to be shown by this noting of the Labour Enforcement Officer (Central), Katras that these Bonus register Ext. M-6 and M-7 were in existence in the year 1975-76 and that the names of the concerned workmen were already entered in these registers before the date of Inspection by the Labour Enforcement Officer (Central) Katras and that the management's case that it is a fabricated and collusive document is not true.

7. The management has criticised these two documents vide the evidence of MW-1. He has given reasons as to why he disbelieved entries in the Bonus Registers. The grounds are the following: (1). The Bonus Registers were in respect of wagon loaders who were piece rated workmen and the entries of the names of the concerned workmen in the said register could not have been made as they were time rated workmen. (2). The names of the concerned workmen in Ext. M-6 and M-7 are noted continuously after the entry of the names of wagon loaders and thereafter the register are blank. (3). The pages in which the entries of the concerned workmen are made in Ext. M-6 and M-7 appear to be written in one sitting by the same person whereas the writing on the previous pages appear to have been written in different sittings and in different inks. I have carefully perused the entries in these exhibits and it appears that even on previous dates the inks and writings are not the dissimilar. Now-a-days most of the Assistants used Fountain Pen and a particular shade of ink and as such the different writing may be in one ink and the writings in Ext. M-6 and M-7 cannot be doubted on that account. The entries regarding the concerned workmen are no doubt after the entries of the other workmen of the colliery. But it will appear that the management itself is not maintaining the registers properly and as such it cannot be said that only because the entries are made in the end of the registers, they are manipulated. The management has not adduced any evidence to show that the names of time rated workers cannot be entered along with the piece rated workers in the Bonus Registers. I have looked into Cash Books for the years 1974 to 31-1-76 (Ext. M-9 series) which do not show any payment to shale pickers either as wages or as Bonus. Admittedly, there are some shale pickers working in Tetuliya Colliery. It appears that in the Cash Book the entry is not made describing the payment of wages or Bonus to the Shale pickers. The payment to them appears to be made under some different heading. It is therefore difficult to check the correctness of the payment of Bonus as shown in the Bonus Register Ext. M-6 and M-7 with reference to the Cash Book. No witness of the management has come forward to say that payment shown to have been made in the Bonus Register were actually not paid and were not entered in any Cash Book register. It has come in evidence that the Bonus Register is prepared on the basis of Attendance Register. MW-1 and MW-2 have stated that their work used to be supervised by the loading supervisor and that the Attendance used to be maintained by the attendance Clerk. Neither the loading Supervisor nor the attendance Clerk have been

examined to show that the concerned workmen had never worked as shale pickers between the years 1973-1976. The attendance register is expected to be with the management and in order to falsify the entries in Ext. M-6 and M-7 it was necessary to produce the attendance registers to show that the names of the concerned workmen were not entered in the attendance register. The workmen could not have produced the documents which are exclusively in the possession of the management. It cannot, therefore, be said definitely that the entries in the Bonus Register Ext. M-6 and M-7 are false and fabricated.

8. WW-3 Shri S. P. Mandal is the Secretary of Bihar Colliery Kamgar Union. He has proved records of notes of discussion Ext. W-3 which was held on 19-12-80 in the Central Consultative Committee meeting. The minutes in Ext. W-3 shows that a decision was arrived at by which one Shri S. K. Banerjee, Personnel Manager was deputed to visit different areas and to deploy those delisted casuals who had put more than 75 days attendance and a list was to be prepared. WW-3 has stated that on the basis of Ext. W-3 and W-4 he approached the manager and Personnel Officer in 1981 to give work to the concerned workmen. He has further stated that the attendance of the concerned workmen were checked in his presence with reference to the wage sheets, attendance register and Bonus registers and the concerned 84 workmen were found to have more than 75 days attendance in a year and thereafter the manager asked for certificates regarding their identification from the Mukhiya and the BDO which were supplied and then letter dated 13-10-81 (Ext. W-5) was sent by the Manager of Tetuliya Colliery to the General Manager, Area Office with a list of the workmen countersigned by the Head Clerk and the Loading Supervisor besides the Personnel Manager and the Manager of the Colliery. Thus from his evidence it appears that the verification of the attendance of the concerned workmen had been made with reference to the Wage sheets, attendance registers and Bonus Registers. His evidence is positive and he cannot be disbelieved only because he is an Official of the union of which the concerned workmen are the members. WW-1 and WW-2 are the two concerned workmen out of the 84 concerned workmen who have stated about the facts that the concerned workmen had worked as shale pickers in Tetuliya Colliery and that they had more than 75 days attendance in a year between 1973 and 1975. Considering the entire evidence I hold that the Bonus Registers Ext. M-6 and M-7 are not fabricated document and I further hold that the concerned workmen had put in more than 75 days attendance in either the year 1974 or in the year 1975.

9. It is apparent that the concerned workmen are claiming their right on the basis of the circular dated 4-8-80 issued by M/s. BCC Ltd. and the same is Ext. M-3. It will appear from Ext. M-3 that a decision was made that the BCC Ltd. may take in its employment as badli loader such of the delisted casual wagon loaders who have put in 75 days attendance during the period 1973, 1974, 1975 and 1976 and that with a view to ensure that badlies are deployed only when the work is available, name of such badli workers should be properly recorded and identified and each colliery will maintain badli register containing particulars which are stated in Ext. M-3. It is also made clear in this very circular that employment of badli loaders will be only for a duration the position of availability of miners and loaders is not improved and it was further emphasized that the management would not take responsibility with regard to the deployment of badli workmen on a regular basis and for that matter they will have no claim whatsoever with regard to their employment. The concerned workmen, therefore, cannot claim more right than what is stated in the circular in Ext. M-3. Ext. W-3 is the note of discussion of Central Consultative Committee meeting held on 19-12-80 which was represented by the representatives of the different union and the management of M/s. BCC Ltd. This was only to implement the circular Ext. M-3 and it only reiterates the principles enunciated in Ext. M-3.

10. The concerned workmen have prayed for an Award directing the management to allow the concerned workmen to resume their duties from 19-12-80 with full back wages and this prayer of the concerned workmen cannot be allowed as it is not in accordance with the Circular Ext. M-3 on the basis of which their claim is based. In accordance with the circular

Ext. M-3 the concerned workmen can only claim that their names may be included as a badli workmen in view of the fact that they had worked 75 days in Tetuliya Colliery as delisted shale picker during the years 1973 to 1976 and it is up to the management to deploy them when any work is available to be performed by them. The management did not take the responsibility with regard to the deployment of badli workmen on a regular basis and as such they were to have no claim whatsoever with regard to their employment. The concerned workmen, therefore, will be entitled to be included in the list of badli workmen and it is up to the management to employ them if any work is available to be performed by the concerned workmen.

In view of the discussion made above I hold that the demand of the workmen of Tetuliya Colliery for continued employment of the concerned workmen is not justified. But however, the claim of the workmen that names of the concerned workmen be included in the list of badli workmen is quite justified and the management is directed to include the name of all the concerned workmen in the list of badli workmen. It is upto the management to employ badli workmen as and when required. The concerned workmen cannot claim for continued employment and as such the management cannot be directed to allow the concerned workmen to resume their duties from 19-12-80 with full back wages. The parties to bear their own costs.

This is my Award.

[No. L-20012(204)/82-D.III(A)]

I. N. SINHA, Presiding Officer

S.O. 3367.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal No. 3, Dhanbad in the industrial dispute between the employers in relation to the management of Sijua Area No. V of M/s. Bharat Coking Coal Limited and their workmen, which was received by the Central Government on the 5th October, 1984.

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT NO. 3, DHANBAD

Reference No. 30/83

PRESENT :

Shri J. N. Singh, Presiding Officer.

PARTIES :

Employers in relation to the management of Sijua Area

AND

No. V of M/s. Bharat Coking Coal Ltd.

Their workman

APPEARANCES :

For the Employers—Shri G. Prasad, Advocate.

For the Workman—Shri D. Mukherjee, Advocate.

STATE : Bihar:

INDUSTRY : Coal.

Dated, the 27th September, 1984

AWARD

The Govt. of India in the Ministry of Labour in exercise of the powers conferred on them U/s. 10(1)(d) of the Industrial Disputes Act, 14 of 1947 has referred the dispute to this Tribunal for adjudication under Order No. L-20012(121)/83-D. III(A) dated the 17th August, 1983.

SCHEDULE

"Whether the action of the management of Sijua Area No. V of M/s. Bharat Coking Coal Ltd., P.O. Sijua, Dist. Dhanbad in refusing to grant promotion to

clerical Grade-I to Shri Gora Chand Sarkar, Clerk Grade-II, is justified? If not, to what relief is the workman entitled and from what date?"

2. The union is represented in this case by Sri D. Mukherjee, Secretary of the Bihar Colliery Kamgar Union. No written statement, however, was filed on behalf of the union but the case has been contested on their behalf.

3. The issue in this case regarding refusal of promotion to Sri Gora Chand Sarkar from Clerical Grade II to clerical Grade I.

4. The defence of the management, however, is that promotion of an employee from one grade to another grade is a management's function and no employee can press for it. It is stated that the concerned workman was appointed in 1972 in Clerical Grade II and the promotion from one grade to another is regularised by the Cadre Scheme of the company subject to vacancy, performance, seniority etc. and this promotion is also made departmentwise. It is also stated that the case of the concerned workman was considered earlier but he was not found fit and subsequently by office Order dated 20-9-83 he has been promoted to Clerical Grade-I with retrospective effect from 1-4-83 and therefore the present Reference has become infructuous. It is submitted that no retrospective effect can be given to an award for any period prior to the date on which these specific demands which resulted in the industrial dispute were made. It is also stated that as the promotion was given from 1-4-83 and the dispute was raised long thereafter, hence it is not maintainable.

5. The point for consideration is as to whether the action of the management in refusing to grant promotion from Clerical Grade II to Clerical Grade I to the concerned workman is justified. If not to what relief is the concerned workman entitled.

6. The management has filed Ext. M-1 which is a photostat copy of the Office Order dated 29-9-83. It shows that the concerned workman who is working in Sijua Area Office was promoted to Grade I with retrospective effect from 1-4-83 and he was given notional seniority from that date. The concerned workman has not come to the witness box to say that he should have got promotion from any date earlier to that. No evidence has been adduced to show that anybody junior to him was promoted prior to the date from which he was promoted.

7. It will also appear that the Reference is dated 17-8-83. The promotion took effect from 1-4-83 that is prior to the date of Reference. In that view of the fact also the present Reference is infructuous.

8. Considering these, I hold that the action of the management in refusing promotion to the concerned workman is justified. Further as he has already been promoted to Clerical Grade I, the issue regarding his promotion does not arise at all and hence he is not entitled to any relief.

9. The award is passed accordingly.

J. N. SINGH, Presiding Officer
[No. L-20012(1217)/83-D.III(A)]

S.O. 3368.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal No. 2, Dhanbad in the industrial dispute between the employers in relation to the management of Kooridih Colliery of M/s. Bharat Coking Coal Ltd., Post Office Sonardih, District Dhanbad and their workmen, which was received by the Central Government on the 29th September, 1984.

960 GI/84—3

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD

PRESENT :

Shri I. N. Sinha, Presiding Officer.

Reference No. 135 of 1982

In the matter of Industrial Disputes under Section 10(1)(d) of the I.D. Act, 1947.

PARTIES :

Employers in relation to the management of Kooridih Colliery of Messrs. Bharat Coking Coal Limited, P.O. Sonardih, Distt; Dhanbad and their workmen.

APPEARANCES :

On behalf of the employers—Shri G. Prasad, Advocate.

On behalf of the workmen—Shri B. Lal, Advocate and Shri D. K. Verma, Advocate.

STATE : Bihar.

INDUSTRY : Coal

Dated, Dhanbad, the 26th September, 1984

AWARD

The Government of India in the Ministry of Labour & Rehabilitation, in exercise of the powers conferred on them under Section 10(1)(d) of the I.D. Act, 1947, has referred the following dispute to this Tribunal for adjudication under Order No.L-20012 (228)/82-D.III(A), dated the 23rd Nov., 1982.

SCHEDULE

"Whether the demand of the workmen for Grade-I wages to Shri Ashok Kumar Gupta, Lamp Room Incharge by the management of Kooridih colliery of Messrs. Bharat Coking Coal Limited, Post Office Sonardih, District Dhanbad is justified? If so, to what relief is the workman concerned entitled?"

The case of the workmen is that the concerned workman Shri Ashok Kumar Gupta was employed by the erstwhile employers of Kooridih Colliery on 26-4-71 as Lamp Room Incharge and he continued to work as Lamp Room Incharge since then. The national Coal Wage Board Recommendation which has been accepted by the management has placed Cap Lamp Room Incharge in Clerical Grade-I and not in any other grade. The management is paying the wages of Clerical Grade-II to the concerned workman. The demand was made to the General Manager on behalf of the concerned workman to put him in proper grade-I and to pay him the difference of wages which has been deprived ever since his appointment. The Koyala Ispat Mazdoor Pauchayat of which the concerned workman is a member is a Regd. Trade Union. The said union by its letter dated 2-3-81 addressed to the General Manager Govindpur Area No. III also demanded the proper grade of the concerned workman according to the Wage Board Recommendation and prayed for payment of the difference of wages when the management did not concede to the demand of the workman, the union raised an industrial dispute before the ALC(C) Dhanbad. The conciliation failed and a failure report as sent to the Ministry of Labour, Government of India and thereafter the present reference was made. The concerned workman has prayed that he should get his proper Grade-I being Lamp Room Incharge with retrospective effect and to pay the arrears of difference of wages.

The case of the management is that no dispute was raised with the management by the concerned workman before the demand was placed for the intervention of the Conciliation Officer and as such the demand of the concerned workman is not an industrial dispute. No retrospective effect can be given to an Award to a date prior to a date on which the specific demand which resulted in the Industrial dispute were made and as such no retrospective effect can be given. The concerned workman at the time of take over of the Colliery on 17-10-71 was only a Cat. I workman. After the na-

tionalisation of the Coal Mines w.e.f. 1-5-72 the management at the time of recategorisation placed the concerned workman in Clerical Grade-II w.e.f. 1-5-72 and since then he has been performing his duties as Junior Cap Lamp Room Incharge. The concerned workman is now seeking promotion from Clerical Grade-II to Clerical Grade-I which is the function of the management and the Tribunal cannot pass such an Award. The management has a promotion policy and the case of the concerned workman has not been considered by the Departmental Promotion Committee for being promoted to Clerical Grade-I. The demand of the workman for wages for Clerical Grade-I is not justified and he is not entitled to any wages or any other benefits.

The only point for consideration in this case is whether the concerned workman was working as Lamp Room Incharge.

The workmen have examined one witness and the management also has examined one witness in support of their respective cases. The management has further exhibited 6 items of documents and the concerned workman has also exhibited 10 items of documents.

WW-1 Shri Ashok Kumar Gupta is the concerned workman. He has stated that since 1-4-71 he is working in Kooridih Colliery as Cap Lamp Room Incharge. He has further stated that there is only one Cap Lamp Room Incharge in Kooridih Colliery and he is designated as Cap Lamp Room Incharge. He has denied that he was ever designated as Junior Cap Lamp Room Incharge. He has also stated that there is no senior Cap Lamp Room Incharge nor there is any junior to him as Cap Lamp Room Incharge in Kooridih Colliery. He has stated about his duties which shows that he maintains the records in respect of Cap Lamp and to keep maintenance of the cap lamps. He has stated that although he is Cap Lamp Room Incharge he is being paid the scale of Clerical Grade-II. The fact that the concerned workman is a Cap Lamp Room Incharge as stated by him is supported by the management's witness No. 1 Shri Kiran Singh who is a General Clerk of the management. He has stated that he is working in Kooridih Colliery as General Clerk since 1969 and knows the concerned workman. He has stated that the concerned workman was working as Cap Lamp Room Incharge since 1971. He has also stated that Kooridih Colliery which is a Coking Coal Mines was nationalised w.e.f. 1-5-72. Thus it will appear that there is no dispute now left after the oral evidence of the parties that the concerned workman is working as Cap Lamp Room Incharge in Kooridih Colliery since his appointment by the erstwhile management. Ext. W-5 is a letter dated 17-9-75 addressed by the Manager of Kooridih Colliery to the concerned workman describing him as Cap Lamp Room Incharge, Kooridih Colliery. It is stated in this that the concerned workman is Incharge of Lamp Room and is responsible for proper maintenance of Lamp Belts and that he was looking after his work and he was asked to show cause as to why disciplinary action should not be taken against him. Ext. W-6 is a note dated 12-1-73 in the writing of Shri I. R. Jordan describing the concerned workman Shri Ashok Kumar Gupta as Cap Lamp Room Incharge. Ext. W-7 is the Identity Card issued by the management to the concerned workman describing the concerned workman as Cap Lamp Room Incharge. Ext. W-8 is the Wage slip which shows that the concerned workman was getting wages of Clerical Grade-II Ext. W-10 is a certificate dated 9th May, 1969 showing that the concerned workman was given a comprehensive training in the installation maintenance and use of Oldham Cap Lamps and the course also included the legal responsibility of the Lamp Cabin Incharge. It further shows that the concerned workman had passed the test held by the Kilburn Division of Macneil and Barry Ltd. The documents filed on behalf of the concerned workman which I have discussed above show that the concerned workman was Cap Lamp Room Incharge in Kooridih Colliery. Thus from the oral and the documentary evidence it has been fully established that the concerned workman was working as Cap Lamp Room Incharge at Kooridih Colliery and was getting wages of Clerical Grade-II.

At page-54 Vol. II of the Wage Board Recommendation it appears that Cap Lamp Room Incharge has been graded in Clerical Grade-I. It will further appear that Asstt. Lamp Room Incharge and Junior Lamp Room Incharge are in Clerical Grade-II. There is no evidence to show that the concerned workman was working as Asstt. Lamp Room Incharge or Junior Lamp Room Incharge. The oral and documentary evidence clearly show that the concerned workman

was Cap Lamp Room Incharge which is in Clerical Grade-I. The concerned workman is therefore, entitled to the wages of Clerical Grade-I although the management put the concerned workman in Clerical Grade-II at the time of recategorisation after the nationalisation of the Coal Mines. The fact remains that he had not worked as Asstt. Lamp Room Incharge or Junior Lamp Room Incharge and that he had always worked as Cap Lamp Room Incharge. Thus the grading of the concerned workman in Clerical Grade-II was not in accordance with the job performance of Cap Lamp Room Incharge. The concerned workman is not claiming promotion to Clerical Grade-I from Clerical Grade-II. His case is that as he was working already as Cap Lamp Room Incharge which is a post of Clerical Grade-I and the management had illegally placed him in Clerical Grade-II the same not being in accordance with the Clerical Staff grading recommended in the Coal Wage Board Recommendation and as such this is not a case of promotion but is a mere case of giving proper Grading to the concerned workman. It is submitted on behalf of the management that no dispute was raised with the management and as such it is not an industrial dispute and the workman should not be given any relief. Annexure to the W. S. of the concerned workman shows that Vice President of Koyla Ispat Mazdoor Panchayat had by its letter dated 2-3-81 made a demand to the General Manager for proper Grade to the concerned workman. From para-3 of the W. S. of the management it will appear that the demand made before the ALC(C) by the Union was in their knowledge. There is no doubt for the existence of an industrial dispute, there must be a demand by the workman and the refusal to grant it by the management. How the demand should be raised cannot be a legal notion of fixity and rigidity. The only thing required is that the grievance of a workman and the demand for its redressal must be communicated to the management. The means and mechanism of the demand made to the management is not a matter of importance and the only thing required is that the demand of the workman reaches the management. It is not always necessary that written demand must be made before the management. It has been held in a case reported in 1984-II LLJ-P-259 that talks and discussion before the Asstt. Commissioner of Labour relating to the dispute and the demand to set it right is also a communication of demand to the management. It was further held that the demand as such need not in all cases be directly made by a representative to the management and the demand could be made through other sources also. In the above view of the matter and taking the facts into consideration it will appear that the demand was made on behalf of the concerned workman by the union.

It has been submitted on behalf of the management that no retrospective effect can be given to an Award to a date prior to a date on which the specific demand which resulted in the Industrial dispute were made. This submission has been made on the basis of a case reported in SCLJ-P-P-3067 where their Lordships held that no retrospective effect can be given to an Award for any period prior to the date on which the specific demand which resulted in the Industrial dispute were made. It appears from para-4 of the W. S. of the workman that the union by its letter dated 2-3-81 addressed to the General Manager, Govindpur Area No. III demanded to undo the injustice being perpetrated against the concerned workman in not granting proper Grade-I as recommended by the Coal Wage Board Recommendation to pay the difference of wages of which he had been deprived of ever since 1971. There is no other evidence to show that the concerned workman had made a demand earlier than 2-3-81 and as such, in accordance with the decision of the Hon'ble Supreme Court which I have referred to above the concerned workman can get the difference of wages of Clerical Grade-I and Clerical Grade-II from 2-3-1981 and not prior to that although he was working as Cap Lamp Room Incharge in Kooridih Colliery since the date of nationalisation.

In view of the findings made above, I hold that the demand of the workman for Grade-I wages to the concerned workman as Lamp Room incharge is justified. As the concerned workman was getting wages of Clerical Grade-II although as Cap Lamp Room Incharge he was working in Clerical Grade-I he is entitled to the difference of wages w.e.f. 2-3-81 with all other consequential benefits.

This is my Award.

J. N. SINHA, Presiding Officer,
[No. L-20012(228)/82-D.III(A)]

S.O. 3369.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal No. 2, Dhanbad in the industrial dispute between the employers in relation to the management of Khas Kusunda Colliery of M/s, Bharat Coking Coal Limited, Post Office Kusunda, District Dhanbad, and their workmen, which was received by the Central Government on the 5th October, 1984.

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2), AT DHANBAD

PRESENT :

Shri I. N. Sinha, Presiding Officer.

Reference No. 104 of 1982

In the matter of Industrial Disputes under S. 10(1)(d) of the I.D. Act, 1947.

PARTIES :

Employers in relation to the management of Khas Kusunda Colliery of Messrs. Bharat Coking Coal Limited., Post Office Kusunda, District Dhanbad and their workmen.

APPEARANCES :

On behalf of the Employers—Shri G. Prasad, Advocate.

On behalf of the workmen—Shri B. Lal, Advocate and Shri D. K. Verma, Advocate.

INDUSTRY : Coal

AWARD

STATE : Bihar

Dated, Dhanbad the 27th September, 1984

The Government of India in the Ministry of Labour, in exercise of the powers conferred on them under Section 10(1)(d) of the I.D. Act, 1947, has referred the following dispute to this Tribunal for adjudication under Order No. L-20012(164)/82-D.III(A) dated, the 6th September, 1982.

SCHEDULE

"Whether the action of the management of Khas Kusunda Colliery of Messrs Bharat Coking Coal Limited, Post Office Kusunda, District Dhanbad in stopping Shri Ram Autar Mahato No. 2 from work from the 30th March 1981 and not allowing him to resume his duties is justified? If not to what relief is the workman concerned entitled?"

The case of the management is that the concerned workman Shri Ram Autar Mahato No. 2 had never worked in the colliery before 14-10-80 even as Casual worker and as such there was no question of providing him regular work. He was a badli miner/casual worker and was temporarily allowed to work as miner/loader due to exigency of work. He was not given further employment after 30-3-81. A badli worker cannot claim regular employment and as such the management was not obliged to employ them any further. It is the discretion of the employer to stop casual worker without assigning any reason and without giving prior notice in accordance with the provisions of the Standing Orders. A workman who had previously worked during the years 1973 to 1976 as casual workers were given preference for employment as badli miners/loaders provided that they had worked at least for a minimum period of 75 days in any of the aforesaid calendar years as delisted casual wagon loaders. One Shri Ram Autar Mahato of Santhal Paraganas had worked on different occasions during the years 1973 to 1976 and due to some inadvertence his name was recorded in the Bonus Register at two places which caused confusion at the time of employment on 14-10-80 and the name of Ram Autar Mahato was incorrectly mentioned in two Serials at Ram Autar Mahato. The concerned workman was not the real Ram Autar Mahato and he was not eligible for employment as he did not fulfil the requisite qualifications. At the time of verification it was found that the concerned workman was not the real Ram Autar Mahato and he was a man from Dhanbad and as such he was stopped from duty without any notice w.e.f. 30-3-81 as he was only a badli/casual miner. The concerned workman was not the real person whom the employer intended to employ. The action of the manage-

ment in stopping the concerned workman is fully justified as he was not the genuine Ram Autar Mahato and as such he is entitled to no relief. It is further submitted on behalf of the management that the concerned workman did not raise the dispute with the employer before the demand was placed before the appropriate Government and as such the demand cannot become an industrial dispute under the Industrial Disputes Act, 1947.

The case of the workmen is that the concerned workman was formerly working as casual workman and was not provided with work regularly. There was great agitation by the different union and representative of the workmen to take into employment the workmen who were working for several years as casual workers. It was finally agreed by the management that the workmen who have completed 75 days work during a year will be provided regular employment. The concerned workman was found to be one of such workmen who had put in more than 75 days of work in a particular year and as such he was selected for regular employment. The management published a list of workmen including the concerned workman who had completed 75 days of work in a year and an objection, if any, was invited against their intended employment. No objection was raised in respect of the concerned workman and as such he was given regular employment. Before giving the regular employment, the management required certificate from the B.D.O., Muihiya and other to prove bonafide and genuineness of the persons being so appointed. The concerned workman produced required certificate and after being satisfied on perusal of the certificate, the management provided employment to the concerned workman. The erstwhile employer used to change the address of the casual workmen preventing them from claiming regularisation in their jobs and the said unfair labour practice continued even after nationalisation of the Coal Mines. At the time of regular employment of the concerned workman, his proper address was recorded in the Register of the management. Subsequently, the management stopped the work of the concerned workman from 30-3-81 on the plea that his address was different in the Bonus Register than the address which was given by the concerned workman at the time he was taken in a regular employment. The concerned workman is the same person who was working since long as a casual worker and he had not given any wrong address and there is no other person claiming the job in place of the concerned workman. The action of the management in stopping the work of the concerned workman with effect from 30-3-81 is not justified and he is entitled to remain on job with continuity of service and he is further entitled to full back wages and other benefits.

The main question to be determined in this reference is whether the concerned workman had earlier worked for more than 75 days in a calendar year between 1973 to 1976.

Admittedly the name of the concerned workman was included in the roll of Badli miner/wagon loaders vide Office Order Ext. M-9 dated 17-7-80. It will appear from this Ext. that the concerned workman had got 75 days or more days of attendance during the year 1973 to 1976 and as such his name was included in the roll of badli miners/wagon loader with immediate effects. The concerned workman was medically examined along with other vide Ext. M-10 dated 15-9-80. Ext. M-11 dated 18-9-80 is an Office Order issued under the signature of Manager, Khas Kusunda Colliery which shows that the concerned workman along with others had been sent for basic training for 18 days at Godbur Group training centre. Ext. W-5 is the Office order dated 14-10-80 which shows that the concerned workman along with others were temporarily allowed to work as Miner/loaders and that the concerned workman was posted to work in 9 seam of Khas Kusunda Colliery. Ext. M-8 is the list of the unlisted wagon loaders who had worked in Khas Kusunda Colliery between the year 1974 to 1976. From Sl. No. 25 and 182 of the said list it will appear that Ram Autar Mahato at Sl. No. 25 had put in 127 days of attendance while Ramautar at Sl. No. 182 had 89 days of attendance. The fact that the number of attendance of the two Ramautar Mahato are different will show that they are two different persons and not the same person. The parentage and address of neither of the Ramautar Mahato listed in Ext. M-8 are stated in it. This list was prepared by the employees of the management themselves and it bears the signature of the Personnel Officer, Manager and Daya Singh. The said Daya Singh has been elained as MW-1 who is working as Bonus Clerk. He has stated that he was asked to prepare a list of unlisted casual worker who had worked in the years 1974, 1975 and 1976 and that the list Ext. M-8 is in his writing. He has admitted that it contains

his signature and the signature of the then Personnel Officer Shri R. N. P. Singh and the Area Manager. In his cross-examination he has stated that he does not recognise either of the Ramautar. He has stated that the Mining Sirdar, Overman Land Loading Clerk may tell about their identification. He has stated that Ext. M-8 has been prepared by him on the basis of Bonus Registers of 1974 to 1976 and that the Bonus Register is prepared on the basis of bills. The bills or the attendance register have not been produced by the management which is expected to be in their possession. It appears, therefore that the Bonus Registers were prepared correctly in accordance with bills. WW-2 is the concerned workman who has stated that he had worked in West Godhur Colliery for about 10 years. He has stated that formerly he was not regularly employed and that prior to the stopping of his work he was taken 6 days work in a week regularly. Ext. W-10 dated 30-3-81 is the letter by which it will appear that the management directed the concerned workman to explain within 3 days time as to why suitable legal action be not taken against him as on verification of the records it was found that his father's name and home address was different from the father's name and address submitted by him in the certificate from Mukhiya and BDO. Admittedly, thereafter the concerned workman was stopped from work with effect from 30-3-81. On the above evidence it will appear that the concerned workman was appointed to work as miner on the basis of the letter issued by the management and that he was stopped from work with effect from 30-3-81 after he had regularly worked for 6 months.

The case of the management is that the concerned workman was stopped from his work as he had not worked as loader during the years 1973 to 1976. It is submitted by the management that Ramautar Mahato No. 2 who had previously worked during the years 1973 to 1976 for more than 75 days was another person belong to different village and that the concerned workman Ramautar Mahato No. 2 falsely represented himself as the said Ramautar Mahato and had obtained the job. On verification the management came to know that the concerned workman was not the real Ramautar and as such he was stopped from work. Ext. M-16 is Form B Register in respect of Badli workers and it is in the writing of MW-2. It will appear from Sl. No. 39 of M-16 that the name of Ramautar Mahato No. 2 son of Janki Mahato of Kusunda Distt. Dhanbad was working in BCC, Ltd. This entry in Ext. M-16 was made when admittedly, the concerned workman was appointed on 19-9-80. It will appear from the deposition of the concerned workman that WW-2 Ramautar Mahato is the son of Janki Mahato and he has given the address as is stated in Ext. M-16. It is submitted on behalf of the management that this address of the concerned workman did not tally with the address given by him in the Bonus Register which was prepared between the years 1974 to 1976. Ext. M-2 is the Bonus Register of 1974. At page 27 of the said Bonus Register there is the entry of the name of Ramautar Mahato of District Dumka. Ext. M-3 at page 99 is entry in the Bonus Register of 1976 which deals with one Ramautar Mahato. No parentage and address of Ramautar Mahato is stated in Ext. M-3. Ext. M-4 is an entry at page 180 of the Bonus Register for the year 1980 in which there is entry of the name of Ramautar Mahato No. 1. In Ext. M-5 at page 182 of the said register is the entry of the name of Ramautar Mahato No. 2. Ext. M-4 and M-5 are entries when admittedly the concerned workman and the other Ramautar were working in BCCL. The parentage and address of neither of the two Ramautar is mentioned in Ext. M-4 and M-5 but there is mention of Ramautar Mahato No. 1 and Ramautar Mahato No. 2 in these two exhibits. According to the management actually there was one Ramautar of Dumka who was working in BCCL during 1973 to 1976 and that there was some mistake in preparing the list Ext. M-8 and the name of Ramautar was written at two places. It appears that the said assertion made on behalf of the management is not correct. In the Bonus Register of 1974 Ext. M-1 shows that Ramautar Mahato was of District Dumka whereas Ext. M-7 which is an entry of Bonus Register of 1981 shows that Ramautar Mahato was of Nawadah. Thus it will be clear that there were two Ramautar Mahato one belong to district Nawadah and other belonging to district Dumka and the case of the management that there was only one Ramautar working in BCCL is not correct.

The management has examined MW-1 Daya Singh who is a Bonus Clerk working in Khas Kusunda Colliery. The Bonus registers have been proved and exhibited by him. He did not identify any of the Ramautar Mahato. According to him the Mining Sirdar, Overman and loading Clerk can tell about their identification. It will also appear from his evidence that in the Bonus Register he had written only the name of Ramautar and that the parentage and address of Ramautar noted in the Bonus registers are in the writing of some other persons who has not been examined. It will also appear on perusal of the name and address in the exhibited Bonus registers that the name is written in a different ink and handwriting that the parentage and the address are written in different ink and writing. Although in Ext. M-1 the name and parentage of Ramautar Mahato is stated in the subsequent register of 1976 in Ext. M-3 the parentage and address of Ramautar is not stated. If the address and parentage of Ramautar was in existence in the Bonus Register of 1974 as stated in Ext. M-1, the said parentage and address must have been stated in Ext. M-3 in the Bonus Register of 1976. It is clear, therefore, that the address and parentage written in Ext. M-1 was a subsequent entry and was not written in the regular course of officials duties. It is all the more surprising that the management has not been able to produce any witness to state as to who and how the address in Ext. M-1 was written. It is clear therefore that the address in Ext. M-1 was inserted sometime after the year 1976 and that no reliance can be placed on the said insertion of the parentage and address of Ramautar in Ext. M-1. Two reference cases are pending in this Tribunal in respect of two Ramautars. The management states that neither of them is the real Ramautar. It is curious that if there was any other Ramautar why he is not coming forward to claim for his employment. It is apparent therefore that there is no other Ramautar except the two in respect of whom two references are pending. I have already stated above that from the address in Ext. M-1 and M-7 it is clear that there are two Ramautar and as such it appears that two Ramautar in the two Reference cases are the Ramautar who had worked in BCCL. It is stated in the W.S. filed on behalf of the concerned workman that since the time of erstwhile employer, the management used to change the address of the casual workmen to prevent them claiming regularisation in their jobs and that the said practice was continuing in BCCL also. The fact that the parentage and address of Ramautar was entered subsequently shows that the management was still continuing in the habit of changing the address of the casual workmen so that they may not claim any right.

The workmen have examined WW-1 Shri Kumar Arjun Singh who is a State Secretary of Colliery Karamchari Sangh. He knows the concerned workman and the other Ramautar and according to him both of them used to work in Khas Kusunda Colliery as wagon loader since 1973 whenever the management called them both to do the work of loading wagons. He has stated that in the consultative meeting between the different unions and the management it was decided that the loaders who were working from 1973 to 1976 and were stopped from work after 1976 should be allowed to work, if they had worked as loaders for more than 75 days between 1973 to 1976 and that a circular to this effect was issued by the management of M/s. BCCL. He has further stated that attendance of the workmen were verified with reference to the Bonus Registers in accordance with the instructions issued in the Circular and a list was prepared in respect of the workmen who had worked for 75 days between the years 1973 to 1976 and that the names of both the Ramautar were included in this list. He has also stated that the workmen were asked to furnish certificates from Mukhiya and BDO regarding the verification of their names and address and that they were also to file duly attested photographs. He has stated that the concerned workmen submitted all the papers required by the management. Ext. M-8 is the list which was prepared by the management, and the same includes the name of two Ramautar. WW-1 has denied that there was any mistake in noting down the name of Ramautar at two places in Ext. M-8. Ramautar No. 2 is the son of Janki Mahato as stated in the evidence of WW-2. In Ext. W-6 also at Sl. No. 3 there is name of Ramautar Mahato son of Janki Mahato. Ext. W-11 is the certificate attested by the Mukhiya and BDO which shows that Ramautar Mahato No. 2 was son of Janki Mahato of District Dhanbad. Thus it will appear that the concerned workman who is son of Janki Mahato belonged to District Dhanbad. I have discussed above that the parentage and address as stated in the Bonus Register Ext. M-1 cannot be relied upon. No positive

evidence has been led on behalf of the management that the concerned workman had not worked as wagon loader between the years 1973 to 1976. The entry of the name of Ramautar in Ext. M-1 and Ext. M-3, will show that there were two Ramautar who were working as wagon loaders in 1974 and 1976 and I hold that the concerned workman Ramautar Mahato No. 2 son of Janki Mahato had worked previously during 1973 to 1976 as loader for more than 75 days and as such his name was included in Ext. M-8 and he was provided with job as miner.

There are other documents which are not necessary for decision of the case. WW-1 however has filed counterfoil receipts and membership register and certificate of registration of trade union to show that the concerned workman are the members of the Registered trade union which has sponsored their dispute.

In view of the discussion made above I hold that the concerned workman Ramautar Mahato No. 2 was the real Ramautar Mahato No. 2 and had worked continuously for 6 months as miners and as such he is entitled to remain in the job with continuous service and that he should get all the benefits.

In the result, I hold that the action of the management of Khas Kusunda Colliery of M/s. B.C.C.L. Ltd. in stopping from work the concerned workman Shri Ramautar Mahato No. 2 with effect from 30-3-81 is not justified. The concerned workman is therefore entitled to remain on the job with continuity of service with effect from 30-3-81 with full back wages and consequential benefits.

This is my Award.

I. N. SINHA, Presiding Officer
[No. L-20012/164/82-D.III (A)]

New Delhi, the 11th October, 1984

S.O. 3370.—In pursuance of section 17 of the Industrial Disputes Act 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal No. 2, Dhanbad in the industrial dispute between the employers in relation to the management of Kusunda Colliery in Area No. VI of M/s. Bharat Coking Coal Limited, Post Office Kusunda, District Dhanbad, and their workmen, which was received by the Central Government on the 8th October, 1984.

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL (NO. 2), DHANBAD
PRESENT :

Shri I. N. Sinha, Presiding Officer.

Reference No. 123 of 1982

In the matter of an industrial dispute under S. 10(1)(d)
of the I.D. Act, 1947

PARTIES :

Employers in relation to the management of Kusunda
Colliery of Area No. IV of M/s. Bharat Coking
Coal Ltd.

AND

Their workmen

APPEARANCES :

On behalf of the employers—Shri B. Joshi, Advocate,

On behalf of the workmen—None.

STATE : Bihar.

INDUSTRY : Coal

AWARD

Dhanbad, the 22nd September, 1984

This is an industrial dispute under S. 10(1)(d) of the
I.D. Act, 1947. The Central Government by its order No.

L-20012(127)/82-D.III(A) dated 27th August, 1982 has referred this dispute to this Tribunal for adjudication on the following terms :

SCHEDULE

"Whether the demand of the workmen of Kusunda Colliery in Area No. VI of Messrs Bharat Coking Coal Ltd. Post Office Kusunda, District Dhanbad that Shri Chunilal Pal who was working in old category-IX before Coal Wage Board should be placed in new category-VI with retrospective effect is justified? If so, to what relief is the said workman entitled?"

2. After issuance of the notice both the parties appeared and filed their written statement. The case prolonged and was being adjourned on some ground or the other. The workman was not appearing and as such registered notice was given on 16-12-83. Even then the workman did not appear. On 29-3-84 a petition was filed on behalf of the workman praying for time to file rejoinder. After two dates the workman again absented. On 5-6-84 the workman himself appeared late and as such he was informed of the next date fixed in the case and he was stated that in case of his failure to appear, the reference will be taken up ex parte. On the next date Shri B. K. Lath, Advocate appeared for the workman and filed authority and prayed for adjournment. But on the next date fixed no one appeared on behalf of the workmen and as such the case was fixed for ex parte hearing on 22-8-84. Again on 22-8-84 there was no step on behalf of the workmen and as such the case was heard ex parte in the absence of the workman.

3. The onus was on the workman to establish whether their demand that the concerned workman Sri Chunilal Pal who was working in old Category-IX before Coal Wage Board should be placed in new Category-VI with retrospective effect is justified. The workmen did not adduce any evidence to establish whether their demand was justified. The management, therefore, did not adduce any evidence. In the absence of any evidence the workmen have not been able to establish their demand and as such their demand has not been established.

4. In view of the above the demand of the workmen of Kusunda Colliery of Area No. VI of Messrs Bharat Coking Coal Limited, Post Office Kusunda, District Dhanbad that Shri Chunilal Pal who was working in old Category-IX before Coal Wage Board should be placed in new category-VI with retrospective effect is not justified. Consequently, the workman is not entitled to any relief.

This is my award.

I. N. SINHA, Presiding Officer

[No. L-20012(127)/82-D.III(A)]

New Delhi, the 12th October, 1984

ORDER

S.O. 3371.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal No. 2 Dhanbad in the industrial dispute between the employers in relation to the management of Khas Kusunda Colliery of M/s. Bharat Coking Coal Limited, Post Office Kusunda, District Dhanbad and their workmen, which was received by the Central Government on the 5th October, 1984.

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD

PRESENT :

Shri I. N. Sinha,
Presiding Officer.

Reference No. 105 of 1982

In the matter of Industrial Disputes under S. 10(1)(d) of the I. D. Act., 1947.

PARTIES :

Employers in relation to the management of Khas Kusunda Colliery of Messrs. Bharat Coking Coal Limited, Post Office Kusunda, District Dhanbad and their workmen.

APPEARANCES :

On behalf of the employers.—Shri G. Prasad, Advocate.

On behalf of the workmen.—Shri B. Lal, Advocate & Shri D. K. Verma, Advocate.

STATE : Bihar.

INDUSTRY : Coal.

Dated, Dhanbad, the 27th Sept. 1984

AWARD

The Government of India in the Ministry of Labour, in exercise of the powers conferred on them under Section 10(1)(d) of the I.D. Act., 1947, has referred the following dispute to this Tribunal for adjudication under Order No. L-20012(152)/82-D.III(A), dated, the 6th September, 1982.

SCHEDULE

“Whether the action of the management of Khas Kusunda Colliery of Messrs. Bharat Coking Coal Limited, Post Office Kusunda, District Dhanbad in stopping from work Shri Munarik Nonia, son of Shri Baldeo Nonia alias Ramtahal Nonia, Miner, with effect from the 30th March, 1981 is justified? If not, to what relief is the workman concerned entitled?”

The case of the management is that the concerned workman Shri Munarik Nonia was a badli miner/casual wagon loader and he was allowed temporarily to work as Miner/loader due to exigency of work. A Badli workman cannot claim continuous or regular employment and the management was not obliged to employ him. It is the discretion of the employer to stop a badli worker without assigning any reason and without giving him any prior notice in accordance with the provisions of the Standing Orders applicable to the industrial establishment of the management. The concerned workman was not given further employment after 30-3-81 as badli miner/loader. The management decided to employ some casual badli miners/loaders in the year 1980 to meet temporary need of miners/loaders during leave and sick vacancies of permanent miners/loaders in order to maintain production. In making such appointment, the workmen who had previously worked during the year 1973 to 1976 as casual workers were given preference provided that they had worked for a minimum period of 75 days in any of the aforesaid calendar years as delisted casual wagon loaders. One Munarik Nonia son of Ram Tahal Nonia of Gaya had worked on different occasions during the years 1973 to 1976 and the said workman was offered employment as badli miner/loader on 14-10-80. Shri Munarik Nonia son of Baldeo Nonia presented a certificate countersigned by the BDO, Bhanbad that Munarik Nonia son of Baldeo Nonia was the person who had worked during the years 1973 to 1976. The Bonus register for the relevant period was not readily traceable and as such Shri Munarik Nonia of hanbad was allowed to resume his duties as badli/casual miner/loader on 14-10-80. At the time of verification it was found that the concerned workman who belongs to Dhanbad was not the real person who had worked in 1973-1976 as casual delisted wagon loaders and as such he was stopped from work w.e.f. 30-3-81 without any notice as he was only a badli casual miner/loader. The concerned workman is an imposter and is not the real Munarik Nonia of Gaya whom

the employer intended to employ. The management was, therefore, justified in stopping the concerned workman w.e.f. 30-3-81.

The case of the workmen is that the concerned workman Shri Munarik Nonia was working as casual workman in Khas Kusunda Colliery of the management but he was not being provided with regular work by the management. There was a great agitation by the different union and the representative of the workman to take into employment those workmen who were working for several years as casual workers. The management agreed that the workmen who had completed 75 days attendance during a Calendar year will be provided with regular employment. The concerned workman Shri Munarik Nonia was one of such workmen who had put in 75 days work in a particular year and as such he was selected for regular employment. The management published a list of workmen who were found to have completed 75 days attendance in a year inviting objections, if any, against their employment. The name of the concerned workman was also in that list but there was no objection by any person and as such he was given regular employment. Before giving regular employment to the concerned workman, the management required certificate from BDO, Mukhiya and others to prove his bonafide and genuineness. The concerned workman produced the required certificate and the management after being satisfied provided employment to the concerned workman. The erstwhile employers use to change the address of the casual workmen to prevent them from claiming regularisation in their jobs and the said unfair labour practice continued even after nationalisation of the Coal Mines. The proper address of the concerned workman was noted at the time of his regular employment. The concerned workman was stopped from work w.e.f. 30-3-81 on the plea that the address of Munarik Nonia given in the Bonus Register was different than the address which was given by him at the time of his regular employment. No other person has come forward claiming the job as Munarik Nonia in place of the concerned workman. The concerned workman is the same person who was working since long as a casual worker. The concerned workman was not a badli miner. A Badli miner is one who works in place of a permanent employee during his absence. The concerned workman was not working as a substitute or badli worker when his services were stopped by the management. As the concerned workman was in regular employment, the management had no right to stop him from work arbitrarily. On the above facts it is submitted that the action of the management in stopping he work of the concerned workman with effect from 30-3-81 is not justified, and he is entitled to remain on job with continuity of service and is also entitled to full back wages and other benefits.

The main issue involved in the present reference is whether the concerned workman Shri Munarik Nonia had earlier worked for more than 75 days in a Calendar year between 1973 to 1976.

It is admitted that the name of the concerned workman was included in the roll of Badli miner/wagon loader vide Office Order dated 17-7-80 which is Ext. M-7 in this case. It is also admitted that he was medically examined and Ext. M-9 is the report of the Medical examination of the concerned workman along with other dated 15-9-80. Ext. M-10 dated 18-9-80 is an Office Order of M/s. B.C.C. Ltd. which shows that the concerned workman along with others were sent for basic training for 18 days. Ext. W-5 dated 14-10-80 is an Office Order which shows that the concerned workman along with others were temporarily allowed to work as Miner/loader and that the concerned workman was posted to work in 9 Seam of Khas Kusunda Colliery. WW2 is the concerned workman who has stated that he had worked in the colliery for about 10 to 12 years as wagon loader. He has further stated that he had worked regularly for 6 months as miner before he was stopped. Thus, it is clear that the concerned workman on the basis of the letter issued by the management was appointed to work as Miner and that he was stopped from work after he had regularly worked for 6 months with effect from 30th March, 1981.

The case of the management is that the concerned workman was stopped from his work because he had not ever worked as loader during the years 1973 to 1976. According to the management Munarik Nonia who had previously work-

ed during the years 1973 to 1976 for more than 75 days was another person belonging to the Gaya district and that the concerned workman had falsely represented himself as said Munarik Nonia and had obtained the job. When the management came to know that the concerned workman was not the real Munarik Nonia he was stopped from work. Ext. M-14 is Form B Register in respect of casual and badli workers. The name of Munarik Nonia is entered in Sl. No. 43. It shows that Munarik Nonia son of Baldeo Nonia of Kusunda, Dhanbad was working in the BCC. Ltd. This entry in Ext. M-14 of course was made when admittedly, the concerned workman was appointed on 19-9-80. This address in Ext. M-14 is the address of the concerned workman given in his deposition. It is submitted on behalf of the management that this address of the concerned workman does not tally with the address given in the Bonus Register. Ext. M-1/1 at page 113 shows that one Munarik Nonia son of Ramtahan Nonia of District Gaya had worked in BCC. Ltd. in the year 1974 and had received Bonus. Ext. M-2 at page 42 of Bonus Register of 1975 will show that Munarik Nonia had worked in BCC. Ltd. in the year 1975. No parentage and address of Munarik Nonia has been given in Ext. M-2. Ext. M-3 at page 3 in the Bonus Register for the years 1976 shows that Munarik Nonia had received bonus in 1976. In this Ext. also no parentage and address of Munarik Nonia is stated. Ext. M-5 at page 109 of the Bonus Register for the year 1981 shows that Munarik Nonia son of Baldeb Nonia of Dhanbad had received Bonus. This Ext. M-5 admittedly was the Bonus paid to the concerned workman after his appointment on 19-9-80. In this Ext. also the address given by the concerned workman is stated. Ext. M-6 is the Bonus Register for the year 1980. At page 178 it will appear that Munarik Nonia has received Bonus in 1980 but no address is given in this exhibit. Thus from all these exhibits it will appear that there is only one entry in Ext. M-1/1 in which the address of Munarik Nonia son of Ramtahan Nonia of District Gaya has been stated.

MW-1 Shri Daya Singh is the Bonus Clerk working in Kusunda Colliery. He has proved the Bonus Registers. It will appear from his evidence that there is an entry of name of Munarik Nonia of Gaya at Page 145 of the Bonus Register Ext. M-4 for the year 1974. Thus from his evidence and Ext. M-4 and Ext. M-1/1 it will appear that there were two Munarik Nonia, one S/o. Ramtahan Nonia and there was another Munarik Nonia son of Bishwanath Nonia of another village of District Gaya. It will further appear from the evidence of MW-1 that the parentage and the address of Munarik Nonia in the Bonus Register is in the writing of some other person and that he had only noted the name of Munarik Nonia on the address portion. No other witness has come forward to say as to who had written the address in the Bonus Register Ext. M-4 and M-1/1. On perusal of the address and the parentage in those two exhibits it will appear that they are in different ink and writing than the writing which has been admitted to be written by WW1. In view of this evidence it cannot be said that the address in Ext. M1/1 and Ext. M-4 were written in regular course. The fact that no parentage and address was written in the Bonus Registers in 1975-76 against the name of Munarik Nonia also shows that the address portion was inserted by in Ext. M-1/1 and Ext. M-4 subsequently by some person. As there is no reliable evidence to show that the address of Munarik Nonia in Ext. M-4 and M1/1 were written in regular course, it appears that they were made sometime subsequent to the year 1976 and that no reliance can be placed on the said insertion of the parentage and address of Munarik Nonia.

I have already stated above that the Bonus Register shows that there were two Munarik Nonia working in the BCC. Ltd. at Khas Kusunda Colliery but it is strange that none of those two Munarik Nonia of Gaya district have come forward to claim that they are the real Munarik Nonia and they should be given employment. The case of the workmen is that since the time of the erstwhile management it has been the practice of the management to enter different address of the same person at different times so that the workmen may not claim regularisation in their job and as we have seen and discussed the documentary evidence, it appears that the case of the workman is not far from truth.

WW-1 Shri Kumar Arjun Singh who is the State Secretary of Colliery Karamchari Sangh. He knows Munarik Nonia. He has stated that the concerned workman was working in Khas Kusunda Colliery as wagon loader since 1973 and that whenever the management required he was called to work as wagon loader. He has stated that in a discussion with the management and the union it was decided that the loaders who were working from 1973 to 1976 and are stopped from work after 1976 should be allowed to work if they had worked as loaders for more than 75 days between 1973 to 1976 and that a circular to this effect was also issued by the management of the BCC. Ltd. He has further stated that the attendance of the workmen were verified with reference to the Bonus Registers in accordance with the instructions issued in the circular and a list was prepared in respect of the workmen who had worked for 75 days between the years 1973 to 1976 and that the name of the concerned workman was also included in that list. He has also stated that the workmen were to obtain certificates from Mukhiya and BDO regarding the verification of their names and address and duly attested photographs was also to be given by them. The concerned workman submitted the photograph and the certificate which is Ext. W-7. In his cross-examination he has stated that Munarik Nonia is the son of Baldeo Bhuia alias Ramtahan Nonia of Khas Kusunda Colliery. Thus the Father's name of Munarik Nonia as stated in Ext. M-1/1 tallies with the father's name of the concerned workman. It was suggested to MW-1 that in Ext. M-5 the address given is the local address of the concerned workman to which he denied but on comparison of all the materials which I have discussed above it will appear that in Ext. M-5 the concerned workman has given his present local address as was residing there and in Ext. M-1/1 his address was his village address. I hold, therefore, that the concerned workman is the same person who had previously worked during the years 1973 to 1976 as wagon loaders and that his name was mentioned in Ext. M-1/1 and that he is son of Baldeo Nonia alias Ramtahan Nonia.

There were some other documents which I have purposefully avoided to discuss as they are not very direct on the point whether the concerned workman was the real Munarik Nonia who had previously worked as wagon loader.

In view of the fact that the concerned workman was the real Munarik Nonia and had worked continuously for 6 months as miner he is entitled to remain in the job with continued service and that he should get all the benefits.

In the result, I hold that the action of the management of Khas Kusunda Colliery of M/s. B.C.C. Ltd. in stopping from work the concerned workman Shri Munarik Nonia son of Baldeo Nonia alias Ramtahan Nonia, miner w.e.f. 30-3-81 is not justified. The concerned workman is, therefore, entitled to remain on the job with continuity of service with effect from 20-3-81 with full back wages and consequential benefits.

This is my Award.

I. N. SINHA, Presiding Officer

[No. L-20012(152)/82-D.III(A)]

A.V.S. SARMA, Desk Officer

नई दिल्ली, 10 अक्टूबर, 1984

का० आ० 3372.—केन्द्रीय सरकार को यह प्रतीत होता है कि मैसर्स सनम इंडस्ट्रीज 4-ए, लिबासपुर रोड, समैपुर (बादली) दिल्ली-42 नामक स्थापन के सम्बद्ध नियोजक और कर्मचारियों की बहुसंख्या इस बात पर सहमत हो गई है कि कर्मचारी अधिग्रहण निधि और प्रकीर्ण उपबन्ध अधिनियम, 1952 (1952 का 19) के उपबन्ध उक्त स्थापन को लागू किए जाने चाहिए।

अतः केन्द्रीय सरकार, उक्त अधिनियम की धारा 1 की उपधारा 4 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए उक्त अधिनियम के उपबन्ध उक्त स्थापन को लागू करती है।

[सं० एस-35019/357/84-पी०एफ०-2]

New Delhi, the 10th October, 1984

S.O. 3372.—Whereas it appears to the Central Government that the employer and the majority of the employees in relation to the establishment known as Messrs Sanam Industries, 4-A, Libaspur Road, Samaipur (Badli), Delhi-47 have agreed that the provisions of the Employees' Provident Fund and Miscellaneous Provisions Act, 1952 (19 of 1952), should be made applicable to the said establishment;

Now, therefore, in exercise of the powers conferred by sub-section (4) of Section 1 of the said Act, the Central Government hereby applies the provisions of the said Act to the said establishment.

[No. S-35019(357)/84-PF. II]

का० आ० 3373.—केन्द्रीय सरकार को यह प्रतीत होता है कि मैसर्स डी०डी० 427, पेरियाकुलम कोऑपरेटिव मिल्क सप्लाय सोसाइटी लिमिटेड, 18 रहीम स्ट्रीट, पेरियाकुलम, मदुरई बैस्ट-626501, तमिलनाडु नामक स्थापन के सम्बद्ध नियोजक और कर्मचारियों की बहुसंख्या इस बात पर सहमत हो गई है कि कर्मचारी भविष्य निधि और प्रकीर्ण उपबन्ध अधिनियम, 1952 (1952 का 19) के उपबन्ध उक्त स्थापन को लागू किए जाने चाहिए।

अतः केन्द्रीय सरकार, उक्त अधिनियम की धारा 1 की उपधारा 4 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए उक्त अधिनियम के उपबन्ध उक्त स्थापन को लागू करती है।

[सं० एस-35019(356)/84-पी०एफ०-2]

S.O. 3373.—Whereas it appears to the Central Government that the employer and the majority of the employees in relation to the establishment known as Messrs D. D. 427 Periyakulam Cooperative Milk Supply Society Limited, 18-Rahcem Street, Periyakulam, Madurai West-626501, Tamil Nadu have agreed that the provisions of the Employees' Provident Fund and Miscellaneous Provisions Act, 1952 (19 of 1952), should be made applicable to the said establishment;

Now, therefore, in exercise of the powers conferred by sub-section (4) of Section 1 of the said Act, the Central Government hereby applies the provisions of the said Act to the said establishment.

[No. S-35019(356)/84-PF. II]

का० आ० 3374.—केन्द्रीय सरकार को यह प्रतीत होता है कि मैसर्स कलकत्ता फर्नीचर, होटल श्री सूर्य कमरा, सं० 112, विशाखापत्तनम, आन्ध्र प्रदेश नामक स्थापन के सम्बद्ध नियोजक और कर्मचारियों की बहुसंख्या इस बात पर सहमत हो गई है कि कर्मचारी भविष्य निधि और प्रकीर्ण उपबन्ध अधिनियम, 1952 (1952 का 19) के उपबन्ध उक्त स्थापन को लागू किए जाने चाहिए।

अतः केन्द्रीय सरकार, उक्त अधिनियम की धारा 1 की उपधारा 4 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए उक्त अधिनियम के उपबन्ध उक्त स्थापन को लागू करती है।

[सं० एस-35019(358)/84-पी०एफ०-2]

S.O. 3374.—Whereas it appears to the Central Government that the employer and the majority of the employees in relation to the establishment known as Messrs Calcutta Furniture, Hotel Sri Surya, Room No. 112, Visakhapatnam, Andhra Pradesh, have agreed that the provisions of the Employees' Provident Fund and Miscellaneous Provisions Act, 1952 (19 of 1952), should be made applicable to the said establishment;

Now, therefore, in exercise of the powers conferred by sub-section (4) of Section 1 of the said Act, the Central Government hereby applies the provisions of the said Act to the said establishment.

[No. S-35019(358)/84-PF. II]

का० आ० 3375.—केन्द्रीय सरकार को यह प्रतीत होता है कि मैसर्स सूर्य इंडस्ट्रीज, 8, अम्मानकुलम रोड, पी०एन० पालायाम, कोयम्बटूर-641037, तमिलनाडु, नामक स्थापन के सम्बद्ध नियोजक और कर्मचारियों की बहुसंख्या इस बात पर सहमत हो गई है कि कर्मचारी भविष्य निधि और प्रकीर्ण उपबन्ध अधिनियम, 1952 (1952 का 19) के उपबन्ध उक्त स्थापन को लागू किए जाने चाहिए।

अतः केन्द्रीय सरकार, उक्त अधिनियम की धारा 1 की उपधारा 4 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए उक्त अधिनियम के उपबन्ध उक्त स्थापन को लागू करती है।

[सं० एस-35019(332)/84-पी०एफ०-2]

S.O. 3375.—Whereas it appears to the Central Government that the employer and the majority of the employees in relation to the establishment known as Messrs Surya Industries, 8, Ammankulam Road, P. N. Palayam, Coimbatore-641037, Tamil Nadu have agreed that the provisions of the Employees' Provident Fund and Miscellaneous Provisions Act, 1952 (19 of 1952), should be made applicable to the said establishment;

Now, therefore, in exercise of the powers conferred by sub-section (4) of Section 1 of the said Act, the Central Government hereby applies the provisions of the said Act to the said establishment.

[No. S-35019(332)/84-PF. II]

का० आ० 3376.—केन्द्रीय सरकार को यह प्रतीत होता है कि मैसर्स रामू डेरी, 68, मातवीं गली, टाटाबाद, कोयम्बटूर-641012, तमिलनाडु, नामक स्थापन के सम्बद्ध नियोजक और कर्मचारियों की बहुसंख्या इस बात पर सहमत हो गई है कि कर्मचारी भविष्य निधि और प्रकीर्ण उपबन्ध अधिनियम, 1952 (1952 का 19) के उपबन्ध उक्त स्थापन को लागू किए जाने चाहिए।

अतः केन्द्रीय सरकार, उक्त अधिनियम की धारा 1 की उपधारा 4 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए उक्त अधिनियम के उपबन्ध उक्त स्थापन को लागू करती है।

[सं० एस-35019(331)/84-पी०एफ०-2]

S.O. 3376.—Whereas it appears to the Central Government that the employer and the majority of the employees in relation to the establishment known as Messrs Ramu Dairy, 68, 7th Street Tatahad, Coimbatore-641012, Tamil Nadu have agreed that the provisions of the Employees' Provident Fund and Miscellaneous Provisions Act, 1952 (19 of 1952), should be made applicable to the said establishment;

Now, therefore, in exercise of the powers conferred by sub-section (4) of Section 1 of the said Act, the Central Government hereby applies the provisions of the said Act to the said establishment.

[No. S-35019/331/84-PF. II]

का. आ. 3377—केन्द्रीय सरकार को यह प्रतीत होता है कि मैसर्स इनविरोनमेंटल प्लानिंग एण्ड कोरडीनेशन ओरगनाईजेशन प्रयावरन प्ररीसर ई-5 सेक्टर, भोपाल, -16, मध्य प्रदेश नामक स्थापन के सम्बद्ध नियोजक और कर्मचारियों की बहुसंख्या इस बात पर सहमत हो गई है कि कर्मचारी भविष्य निधि और प्रकीर्ण उपबंध अधिनियम, 1952 (1952 का 19) के उपबंध उक्त स्थापन को लागू किए जाने चाहिएं।

अतः, केन्द्रीय सरकार, उक्त अधिनियम की धारा 1 की उपधारा 4 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए उक्त अधिनियम के उपबंध उक्त स्थापन को लागू करती है।

[सं. एम-35019(351)/84-पी. एफ.-2]

S.O. 3377.—Whereas it appears to the Central Government that the employer and the majority of the employees in relation to the establishment known as Messrs Environmental Planning and Coordination Organisation, E-5 Sector, Paryavar, Parisar Bhopal, M.P. have agreed that the provisions of the Employees' Provident Fund and Miscellaneous Provisions Act, 1952 (19 of 1952), should be made applicable to the said establishment;

Now, therefore, in exercise of the powers conferred by sub-section (4) of Section 1 of the said Act, the Central Government hereby applies the provisions of the said Act to the said establishment.

[No. S-35019/351/84-PF. II]

का. आ. 3378—केन्द्रीय सरकार को यह प्रतीत होता है कि मैसर्स व्थवासय सेवा सहकारी संघ नियामिथा, मुड्डा-तानुर पोस्ट, सिरुगुप्पा तालुक, बेल्लारी डिस्ट्रिक्ट, कर्नाटक, नामक स्थापन के सम्बद्ध नियोजक और कर्मचारियों की बहुसंख्या इस बात से सहमत हो गई है कि कर्मचारी भविष्य निधि और प्रकीर्ण उपबंध अधिनियम, 1952 (1952 का 19) के उपबंध उक्त स्थापन को लागू किए जाने चाहिएं।

अतः, केन्द्रीय सरकार, उक्त अधिनियम की धारा 1 की उपधारा 4 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए उक्त अधिनियम के उपबंध उक्त स्थापन को लागू करती है।

[सं. एम-35019(330)/84-पी. एफ.-2]

S.O. 3378.—Whereas it appears to the Central Government that the employer and the majority of the employees in relation to the establishment known as Messrs Vyavasaya Seva Sahakara Sangha Niyamitha, Muddatanur Post, Siruguppa Taluk, Bellary District Karnataka have agreed that the provisions of the Employees' Provident Fund and Miscellaneous Provisions Act, 1952 (19 of 1952), should be made applicable to the said establishment;

Now, therefore, in exercise of the powers conferred by sub-section (4) of Section 1 of the said Act, the Central Government hereby applies the provisions of the said Act to the said establishment.

[No. S-35019/330/84-PF. II]

का. आ. 3379—केन्द्रीय सरकार को यह प्रतीत होता है कि मैसर्स वाच एण्ड वाई सर्विसेज, 9-आरकोट रोड, 960 G1/84—4

वीरुगम्बक्कम, मद्रास-92, तमिलनाडु, नामक स्थापन के सम्बद्ध नियोजक और कर्मचारियों की बहुसंख्या इस बात पर सहमत हो गई है कि कर्मचारी भविष्य निधि और प्रकीर्ण उपबंध अधिनियम, 1952 (1952 का 19) के उपबंध उक्त स्थापन को लागू किए जाने चाहिएं।

अतः, केन्द्रीय सरकार, उक्त अधिनियम की धारा 1 की उपधारा 4 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए उक्त अधिनियम के उपबंध उक्त स्थापन को लागू करती है।

[सं. एम-35019(341)/84-पी. एफ.-2]

S.O. 3379.—Whereas it appears to the Central Government that the employer and the majority of the employees in relation to the establishment known as Messrs Watch and Ward Services 9-Arcot Road, Virugambakkam, Madras-92 Tamil Nadu have agreed that the provisions of the Employees' Provident Fund and Miscellaneous Provisions Act, 1952 (19 of 1952), should be made applicable to the said establishment;

Now, therefore, in exercise of the powers conferred by sub-section (4) of Section 1 of the said Act, the Central Government hereby applies the provisions of the said Act to the said establishment.

[No. S-35019/341/84-PF. II]

का. आ. 3380—केन्द्रीय सरकार को यह प्रतीत होता है कि मैसर्स मास्टर मेटल प्रोडक्ट्स सी. एम. एच. क्वार्टर्स, विशाखापटनम-5, आन्ध्र प्रदेश नामक स्थापन के सम्बद्ध नियोजक और कर्मचारियों की बहुसंख्या इस बात पर सहमत हो गई है कि कर्मचारी भविष्य निधि और प्रकीर्ण उपबंध अधिनियम, 1952 (1952 का 19) के उपबंध उक्त स्थापन को लागू किए जाने चाहिएं।

अतः, केन्द्रीय सरकार, उक्त अधिनियम की धारा-1 की उपधारा-4 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए उक्त अधिनियम के उपबंध उक्त स्थापन को लागू करती है।

[सं. एम-35019(350)/84-पी. एफ.-2]

S.O. 3380.—Whereas it appears to the Central Government that the employer and the majority of the employees in relation to the establishment known as Messrs Master Metal Products, C.M.H. Quarters, Vishakhapatnam-5, Andhra Pradesh have agreed that the provisions of the Employees' Provident Fund and Miscellaneous Provisions Act, 1952 (19 of 1952), should be made applicable to the said establishment;

Now, therefore, in exercise of the powers conferred by sub-section (4) of Section 1 of the said Act, the Central Government hereby applies the provisions of the said Act to the said establishment.

[No. S-35019/350/84-PF. II]

का. आ. 3381—केन्द्रीय सरकार को यह प्रतीत होता है कि मैसर्स सुप्रीम इजीनियरिंग इंडस्ट्रीज 9, अक्काशी रोड, एरोडोम पोस्ट, कोयम्बटूर, 14, तमिलनाडु, नामक स्थापन के सम्बद्ध नियोजक और कर्मचारियों की बहुसंख्या इस बात पर सहमत हो गई है कि कर्मचारी भविष्य निधि और प्रकीर्ण

उपबंध अधिनियम, 1952 (1952 का. 19) के उपबंध सक्त स्थापन को लागू किए जाने चाहिए।

अतः, केन्द्रीय सरकार, उक्त अधिनियम की धारा 1 की उपधारा 4 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए उक्त अधिनियम के उपबंध उक्त स्थापन को लागू करती है।

[सं. एस-35019(329)/84-पी. एफ.-2]

S.O. 3381.—Whereas it appears to the Central Government that the employer and the majority of the employees in relation to the establishment known as Messrs Supreme Engineering Industries, 9, Avanashi Road, Aerodrome Post, Coimbatore-14, Tamil Nadu have agreed that the provisions of the Employees' Provident Fund and Miscellaneous Provisions Act, 1952 (19 of 1952), should be made applicable to the said establishment;

Now, therefore, in exercise of the powers conferred by sub-section (4) of Section 1 of the said Act, the Central Government hereby applies the provisions of the said Act to the said establishment.

[No. S-35019/329/84-PF. II]

का. आ. 3382—केन्द्रीय सरकार को यह प्रतीत होता है कि मैसर्स पैटर्स एण्ड फिनिशर्स, महाबली पुरम रोड, थुराईपकम, मद्रास-600096, तमिलनाडु नामक स्थापन के सम्बद्ध नियोजक और कर्मचारियों की बहुसंख्या इस बात पर सहमत हो गई है कि कर्मचारी भविष्य निधि और प्रकीर्ण उपबंध अधिनियम, 1952 (1952 का 19) के उपबंध उक्त स्थापन को लागू किए जाने चाहिए।

अतः, केन्द्रीय सरकार, उक्त अधिनियम की धारा 1 की उपधारा 4 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए उक्त अधिनियम के उपबंध उक्त स्थापन को लागू करती है।

[सं. एस-35019(361)/84-पी. एफ.-2]

S.O. 3382.—Whereas it appears to the Central Government that the employer and the majority of the employees in relation to the establishment known as Messrs Painters & Finishers, Mahabalipuram Road, Thuraiyakkam, Madras-600096 Tamil Nadu have agreed that the provisions of the Employees' Provident Fund and Miscellaneous Provisions Act, 1952 (19 of 1952), should be made applicable to the said establishment;

Now, therefore, in exercise of the powers conferred by sub-section (4) of Section 1 of the said Act, the Central Government hereby applies the provisions of the said Act to the said establishment.

[No. S-35019(361)/84-PF. II]

का. आ. 3383.—केन्द्रीय सरकार को यह प्रतीत होता है कि मैसर्स ए. बी. एंटरप्राइजिज, 2-ए, एस. एस. आई. प्लॉट नं.-15, एन. आई. टी. फरीदाबाद-121001, हरियाणा नामक स्थापन के सम्बद्ध नियोजक और कर्मचारियों की बहुसंख्या इस बात पर सहमत हो गई है कि कर्मचारी भविष्य निधि और प्रकीर्ण उपबंध अधिनियम, 1952 (1952 का 19) के उपबंध उक्त स्थापन को लागू किए जाने चाहिए।

अतः, केन्द्रीय सरकार, उक्त अधिनियम की धारा 1 की उपधारा 4 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए उक्त अधिनियम के उपबंध उक्त स्थापन को लागू करती है।

[सं. एस-35019(360)/84-पी. एफ.-2]

S.O. 3383.—Whereas it appears to the Central Government that the employer and the majority of the employees in relation to the establishment known as Messrs A. V. Enterprises, 2-A, S.S.I. Plot No. 15, N.I.T. Faridabad-121001, Haryana have agreed that the provisions of the Employees' Provident Fund and Miscellaneous Provisions Act, 1952 (19 of 1952), should be made applicable to the said establishment;

Now, therefore, in exercise of the powers conferred by sub-section (4) of Section 1 of the said Act, the Central Government hereby applies the provisions of the said Act to the said establishment.

[No. S-35019(360)/84-PF. II]

का. आ. 3384.—केन्द्रीय सरकार को यह प्रतीत होता है कि मैसर्स व्यवासया सेवा सहकारी संघा नियमिथा, मालापुनागुडी पोस्ट, होस्पेट, तालुक. बेलरी डिस्ट्रिक्ट, कर्नाटका नामक स्थापन के सम्बद्ध नियोजक और कर्मचारियों की बहुसंख्या इस बात पर सहमत हो गई है कि कर्मचारी भविष्य निधि और प्रकीर्ण उपबंध अधिनियम, 1952 (1952 का 19) के उपबंध उक्त स्थापन को लागू किए जाने चाहिए।

अतः, केन्द्रीय सरकार, उक्त अधिनियम धारा 1 की उपधारा 4 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए उक्त अधिनियम के उपबंध उक्त स्थापन को लागू करती है।

[सं. एस 35019(359)/84 पी एफ. 2]

S.O. 3384.—Whereas it appears to the Central Government that the employer and the majority of the employees in relation to the establishment known as Messrs Vyavasaya Seva Sahakara Sangha Niyamitha, Malapungudi Post, Hospet Taluk, Bellary District, Karnataka have agreed that the provisions of the Employees' Provident Fund and Miscellaneous Provisions Act, 1952 (19 of 1952), should be made applicable to the said establishment;

Now, therefore, in exercise of the powers conferred by sub-section (4) of Section 1 of the said Act, the Central Government hereby applies the provisions of the said Act to the said establishment.

[No. S-35019(359)/84-PF. II]

का. आ. 3385.—केन्द्रीय सरकार को यह प्रतीत होता है कि मैसर्स मध्य प्रदेश राज्य ग्राम विकास निगम, श्री नाथ भवन, ई3/15, एरिया कालोनी, भोपाल और चार शाखाएँ ग्वालियर, इंदौर और होसंगाबाद (मध्य प्रदेश) में स्थित नामक स्थापन के सम्बद्ध नियोजक और कर्मचारियों की बहुसंख्या इस बात पर सहमत हो गई है कि कर्मचारी भविष्य निधि और प्रकीर्ण उपबंध अधिनियम, 1952 (1952 का 19) के उपबंध उक्त स्थापन को लागू किए जाने चाहिए।

अतः, केन्द्रीय सरकार, उक्त अधिनियम की धारा 1 की उपधारा 4 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए उक्त अधिनियम के उपबंध उक्त स्थापन को लागू करती है।

[सं. एस-35019(353)/84-पी. एफ. 2]

S.O. 3385.—Whereas it appears to the Central Government that the employer and the majority of the employees in relation to the establishment known as Messrs Madhya Pradesh Rajya Bhumi Vikas Nigam, Shrinath Bhawan, E. 3/15 Area Colony, Bhopal including (2) Itarsi (3) Regional Office, M. P. R.B.V.N. Hoshangabad and (4) Gwalior (M.P.) have agreed that the provisions of the Employees' Provident Fund and Miscellaneous Provisions Act, 1952 (19 of 1952), should be made applicable to the said establishment;

Now, therefore, in exercise of the powers conferred by sub-section (4) of Section 1 of the said Act, the Central Government hereby applies the provisions of the said Act to the said establishment.

[No. S-35019(353)/84-PF. II]

का० आ० 3386.—केन्द्रीय सरकार को यह प्रतीत होता है कि मैसर्स अशोक एग्रो इंडस्ट्रीज, सी-23, इंडस्ट्रियल एस्टेट, येय्यादी, मंगलौर-575008, कर्नाटक तथा 4-7-636, जेल रोड, मंगलौर-3 स्थित इसके कार्यालय सहित नामक स्थापन के संबंध नियोजक और कर्मचारियों की बहुसंख्या इस बात पर सहमत हो गई है कि कर्मचारी भविष्य निधि और प्रकीर्ण उपबंध अधिनियम, 1952 (1952 का 19) के उपबंध उक्त स्थापन को लागू किए जाने चाहिए।

अतः, केन्द्रीय सरकार, उक्त अधिनियम की धारा 1 की उपधारा 4 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए उक्त अधिनियम के उपबंध उक्त स्थापन को लागू करती है।

[सं० एस-35019(355)/84-पी०एफ०-2]

S.O. 3386.—Whereas it appears to the Central Government that the employer and the majority of the employees in relation to the establishment known as Messrs Ashok Agro Industries, C-23, Industrial Estate, Yeyyadi, Mangalore-575008, Karnataka including its office at 4-7-636, Jail Road, Mangalore-3 have agreed that the provisions of the Employees' Provident Fund and Miscellaneous Provisions Act, 1952 (19 of 1952), should be made applicable to the said establishment;

Now, therefore, in exercise of the powers conferred by sub-section (4) of Section 1 of the said Act, the Central Government hereby applies the provisions of the said Act to the said establishment.

[No. S-35019(355)/84-PF. II]

का० आ० 3387.—केन्द्रीय सरकार को यह प्रतीत होता है कि मैसर्स कस्थूरी लघी कंपनी, 1 से 4, थ्रोपथी अम्मन कोहल स्ट्रीट मालूमियरपेट, कुड्डलोर-3, तमिलनाडू, नामक स्थापन के संबंध नियोजक और कर्मचारियों की बहुसंख्या इस बात पर सहमत हो गई है कि कर्मचारी भविष्य निधि और प्रकीर्ण उपबंध अधिनियम 1952 (1952 का 19) के उपबंध उक्त स्थापन को लागू किए जाने चाहिए।

अतः, केन्द्रीय सरकार, उक्त अधिनियम, की धारा 1 की उपधारा 4 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए उक्त अधिनियम के उपबंध उक्त स्थापन को लागू करती है।

[सं० एस-35019(354)/84-पी०एफ०-2]

S.O. 3387.—Whereas it appears to the Central Government that the employer and the majority of the employees in relation to the establishment known as Messrs Kasthuri Lunghi Company, 1 to 4, Thirovpathalamman Koll Street, Malumiyarpet, Cuddalore-3, Tamil Nadu have agreed

that the provisions of the Employees' Provident Fund and Miscellaneous Provisions Act, 1952 (19 of 1952), should be made applicable to the said establishment;

Now, therefore, in exercise of the powers conferred by sub-section (4) of Section 1 of the said Act, the Central Government hereby applies the provisions of the said Act to the said establishment.

[No. S-35019(354)/84-PF. II]

का० आ० 3388.—केन्द्रीय सरकार को यह प्रतीत होता है कि मैसर्स मेटल डेकोरेटर्स, ब्लॉक संख्या-2, आरुलालामपेट, गुइन्दीसईदापेट रोड, गुइन्दीस, मद्रास-600032, तमिलनाडू, नामक स्थापन के संबंध नियोजक और कर्मचारियों की बहुसंख्या इस बात पर सहमत हो गई है कि कर्मचारी भविष्य निधि और प्रकीर्ण उपबंध अधिनियम, 1952 (1952 का 19) के उपबंध उक्त स्थापन को लागू किए जाने चाहिए।

अतः, केन्द्रीय सरकार, उक्त अधिनियम की धारा 1 की उपधारा 4 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए उक्त अधिनियम के उपबंध उक्त स्थापन को लागू करती है।

[सं० एस-35019(328)/84-पी०एफ०-2]

चित्र चोपड़ा, निदेशक

S.O. 3388.—Whereas it appears to the Central Government that the employer and the majority of the employees in relation to the establishment known as Messrs Metal Decorator, Block No. 2, Arulalampet, Guindy-Saidapet Road, Guindy, Madras-600032, Tamil Nadu have agreed that the provisions of the Employees' Provident Fund and Miscellaneous Provisions Act, 1952 (19 of 1952), should be made applicable to the said establishment;

Now, therefore, in exercise of the powers conferred by sub-section (4) of Section 1 of the said Act, the Central Government hereby applies the provisions of the said Act to the said establishment.

[No. S-35019(328)/84-PF. II]

CHITRA CHOPRA, Director

New Delhi, the 10th October, 1984

S.O. 3389.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal, New Delhi in the industrial dispute between the employers in relation to the management of the Lady Hardinge Medical College and Smt. Sucheta Kripalani Hospital, New Delhi and their workmen, which was received by the Central Government on the 29-9-84.

BEFORE SHRI O. P. SINGLA, PRESIDING OFFICER,
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL,
NEW DELHI

I.D. NO. 7/81

In the matter of dispute between :

Shri Krishan Lal S/o Shri Ram Chand, resident of 2500, Punjabi Basti, Subzi Mandi, Delhi.

Versus

Lady Hardinge Medical College & Hospital, New Delhi.
(Now Sucheta Kripalani Hospital).

APPEARANCES :

Shri A. S. Tokas —for the Management.

Shri D. N. Vohra—for the workman.

AWARD

The Central Government, Ministry of Labour on 15-1-81 vide Order No. 42012(33)/80-D.I.L.B made reference of the following dispute to this Tribunal for adjudication :

"Whether the action of the management of the Lady Hardinge Medical College and Smt. Sucheta Kripalani Hospital, New Delhi in terminating the services of Shri Krishan Lal, Telephone Operator with effect from 13th March, 1976 is legal and justified? If not, to what relief is the workman entitled?"

2. Krishan Lal was appointed Telephone-Operator in Lady Hardinge Medical College and Hospital by Order No. F. PMC/69-Admn./4775 dated 24-6-70 in scale 110-180 on one year probation. The services of the workman were terminated by the Management by order No. PMC/PER/76-Admn./2448 dated 13-3-76 believing him to be a temporary employee, without any retrenchment-compensation paid to him, after he had put in more than 5 years' service.

3. The workman's case is that he became a Quasi-permanent employee under the Civil Service Rules after having completed more than three years' service, and his service could not be terminated by giving him one month's notice. He has asserted that termination of his services was inoperative and illegal, and that he be allowed reinstatement in service with full back-wages and continuity of service.

4. The Management contested the claim and it was asserted that the respondent—Institution was not, prior to 1-2-78, a Government Office and the employees were not Central Government Servants then, and the rules and regulations applicable to Central Government were applicable only so far as possible to the employees of the Institution and that Civil Service Rules did not apply in toto.

5. It was urged that the Management was not obliged to communicate any orders regarding probation, and he had not been confirmed at all and remained temporary, and his services could be terminated by giving him one month's notice. The applicability of CCS (CCA) Rules was denied. The termination was said to be in accordance with the service-conditions.

6. One of the objections raised by the Management is that the Management is not an 'Industry' and, in any case, at the time action was taken, the Hospital was clearly not an 'Industry'.

7. The matter in issue has been tried and the workman gave his own affidavit and the Chief Administrative Officer, Mr. K. K. Sharma filed an affidavit for the respondent's Institution in which, again, the plea is taken that the college and the hospital are not an 'Industrial Establishments' and the Industrial Disputes Act, 1947 is not applicable.

8. I have heard the representatives of the parties and written arguments have also been filed by the parties.

9. The question whether Lady Hardinge Medical College and Hospital is an 'Industry' or not has been subject to interpretation by the Supreme Court. The earlier view was that the Hospitals run by the Government without profit were not an 'Industry', and that was the view prevalent in the year 1976. However, later, the Supreme Court of India took a different view and in Bangalore Water Supply and Sewerage Board Vs. A. Rajappa reported in AIR 1978 S.C. 528 gave an extended meaning to the word 'Industry' and definitely held that Hospitals run without profit were also an 'Industry'.

10. There is no doubt that the judgment of the Supreme Court operates retrospectively, and that the judgment in Bangalore Water Supply and Sewerage Board case shall be deemed to apply even to matters that had been decided by the Management of Hospitals earlier than the delivery of this judgment on 8-4-78.

11. The Management of the Lady Hardinge Medical College & Hospital could not have dispensed with the services of Krishan Lal, who had completed more than 240 days service with that Institution, without complying with Section 25-F of the I.D. Act, 1947. The view of the Supreme Court is that Section 2(oo) defining the word 'retrenchment' and section 25-F apply to probationers also as also to temporary employees. Management of Karnataka State Road Transport Corporation Vs. M. Boralah & another reported in

(1984) 1, S.C.C. 244 is the most recent case holding that the probationers are clearly covered under the aforesaid provisions of the I.D. Act, 1947.

12. The termination of services of Krishan Lal, after he had put in 5 years' service with the Lady Hardinge Medical College & Hospital, without complying with section 25-F was clearly illegal and void, when no retrenchment-compensation was paid to him which was due on account of his completion of five years with the respondent-institution. The plea about the termination of service being invalid for violation of section 25-F is not specifically taken in the statement of claim filed on 6-4-81, but the illegality of the Management action and its unjustifiability are clearly pleaded therein, and the legal plea of violation of applicable section 25-F of the I.D. Act, 1947 could be taken during the proceedings, and that has been done by the workman during the arguments before this Tribunal.

13. The Management itself pleads that CCS (CCA) Rules are not strictly applicable and, therefore, the question whether these rules negative the applicability of section 25-F of the I.D. Act, 1947 does not arise in this case.

14. I am of the clear opinion that, apart from CCS Rules whose applicability the Management denies, the action of the Management is clearly illegal and void for non-compliance with section 25-F of the I.D. Act, 1947 when that section fully applied on the facts of the case, but no retrenchment-compensation was paid to the workman.

15. The dispute was referred to this Tribunal only in the year 1981 and before that the proceedings were before the Labour Commissioner (Central). The Management did not retrace its steps and concede the workman's claim, after the Supreme Court Judgment in Bangalore Water Supply and Sewerage Board case referred to above, and the Government of India did not decline to make a reference on the basis that the action was taken at the time when the Bangalore Water Supply and Sewerage Board decision of the Supreme Court had not come into being.

16. The conclusion of this Tribunal is that the Judgment of the Supreme Court in Bangalore Water Supply case delivered in 1978 applies even to cases dealt with by the Management of hospitals before April, 1978 and the fact that the Government of India made the reference to this Tribunal to examine the justifiability of the Management action by order made in 1981 reinforces that view. However, in the matter of relief to be allowed to the workman, allowance will have to be made for the period before the Supreme Court judgment in Bangalore Water Supply and Sewerage Board case.

17. The workman Krishan Lal is ordered to be reinstated in service of the respondent-institution w.e.f. 13-3-76 with continuity of service, but back-wages shall be paid to him only from the period 1-4-78 till reinstatement, and not from any earlier date. The Award is made accordingly.

Further it is ordered that the requisite number of copies of this Award may be forwarded to the Central Government for necessary action at their end.

September, 21, 1984.

O. P. SINGLA, Presiding Officer
[No.L-42012/33/80-D.II(B)]

New Delhi, the 15th October, 1984

S.O. 3390.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal, Calcutta in the industrial dispute between the employers in relation to the management of Air India (Eastern-India), Calcutta and their workmen, which was received by the Central Government on the 29th September, 1984.

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL,
CALCUTTA

Reference No. 32 of 1983

PARTIES :

Employers in relation to the management of Air India

AND

Their Workmen.

PRESENT :

Mr. Justice M. P. Singh, Presiding Officer.

APPEARANCES :

On behalf of management—Mr. N. Das Sharma,
Advocate.On behalf of workmen—Mr. D. L. Sengupta, Advocate
with Mr. M. S. Dutta, Advocate.

STATE : West Bengal.

INDUSTRY : Airlines.

AWARD

By Order No. L-11012(2)/82-D.II(B) dated 11th May, 1983, Government of India, Ministry of Labour and Rehabilitation, Department of Labour referred the following dispute to this Tribunal for adjudication.

"Whether the action of the management of Air India (Eastern-India) Calcutta in reverting Sri P. K. Saha from the post of typist clerk to the post of Peon with effect from 1-5-1981 on ground of ban on recruitment was justified? If not, to what relief the workman is entitled?"

2. The concerned workman Sri P. K. Saha was a peon but he knew typing. By order dated 18-4-79 (Ext. M-2—W-1) he was provisionally promoted to the post of typist clerk w.e.f. 1-9-78. The appointment letter runs as under :

"As we have a vacancy of Typist at Calcutta, and since the subject employee knows typing, he has been asked to perform the duties of a Typist effectively 1st September, 1978.

2. This is with a view to give motivation to Mr. Saha and to enable him to give compete as and when selections are made for the Typist's post on permanent basis.

3. Mr. Saha, having reached the minimum of the next higher grade, will be entitled to receive one increment from the above date till the vacancy is filled on permanent basis.

4. Mr. Saha, will however not be entitled to any other claims such as promotion, seniority etc.

On a perusal of the above it is clear that he was directed to perform the duties of typist clerk with effect from 1st September, 1978 on the post of a permanent typist clerk which fell vacant since June, 1973. The case of the concerned clerk is that even prior to that his services as typist were being utilised from time to time. He was also given one additional increment with effect from 1st September, 1978 till the vacancy was filled on permanent basis. He worked as typist clerk upto 1st May, 1981 he was reverted to his original post of peon under order dated 7/8 April, 1981 (Ext. M-2) followed by another order dated 27/28 April, 1981 (Ext. W3).

2. In this case by order dated 28-11-83 the preliminary objection of the management was directed to be heard along with the merit of the case. Evidences oral and documentary were adduced by both sides and the case has been heard both on preliminary point as well as on merit. I will first deal with the preliminary objection raised at the hearing by the management.

Preliminary Objection

The only preliminary objection raised at the hearing by Sri N. C. Das Sharma appearing for the management is that in this case no demand was ever made by the workman on the employer and was not rejected by the latter and hence there was no industrial dispute to be referred to. He relied on *Sindhu Resettlement Corpn. Ltd. V. Industrial Tribunal*, (1968) 1 LLJ 834(SC), where the Supreme Court held that a mere demand asking the appropriate government to refer the dispute having raised by the workman with their employer regarding such demand, cannot become industrial dispute. Hence an industrial dispute cannot be said to 'exist' until and unless a demand is made by the workman or workmen on the employer and it has been rejected by him. This decision of the Supreme Court has been variously interpreted by different High Courts. A division bench of the Delhi High Court in *Reddies Lloyed Corpn. (Pvt.) Ltd. v. Lieutenant Governor, Delhi* (1970) Lab. IC 421 (Delhi) and a division bench of Orissa High Court in *Orissa Industrial CPL Ltd. v. Presiding Officer, Industrial Tribunal*, (1976) Lab. IC 285 (Orissa) have taken the same view. But the Patna High Court in the *Management of Radio Foundations Engineering Ltd. v. State of Bihar* (1970) Lab. IC 1119 (Pat.) has held that in all cases it is not necessary that the dispute must be preceded by a demand and refusal in express terms by the parties concerned. Similarly a single judge of Calcutta High Court in *Debnay Arya v. Judge, Industrial Tribunal, W.B.* (1976) Lab. IC 1685 (Cal.) that where the dispute related to the closure of an undertaking, a prior demand could hardly have been made before the management in respect to closure. Likewise in a division bench of the Rajasthan High Court in an earlier case in *Goodyear India Ltd. v. Industrial Tribunal*, 1968 11 LLJ 682 (Raj.), demand made before the Conciliation Officer which was opposed by the employer was held sufficient to constitute industrial dispute. Later the Gauhati High Court in *Animesh Chandra Dutta Roy v. Labour Court, Tripura*, 1975 Lab. IC 1065 (Gau.) followed the view of the Patna and Rajasthan High Courts and dissented from the Delhi High Court. In this case also the workman had claimed the relief of reinstatement and back wages before the Chief Labour Officer which was resisted by the employer. A division bench of the Calcutta High Court in *Andrewyule & Co. Ltd. v. Fifth Industrial Tribunal W.B.* (1979) Lab. 204 (Cal.) has held that the contest of application filed by the employer under section 33(2)(b) for approval of the action of dismissal would constitute raising of an industrial dispute with the management. Thus it is clear that the majority of the High Courts in India have differently interpreted the *Sindhu Resettlement* case of the Supreme Court. It may be noted that the Industrial Disputes Act nowhere contemplates that an industrial dispute would come into existence in any particular or prescribed manner. See the case of *Shambanath Goyal v. Bank of Baroda*, 1978 1 LLJ 484. If it is insisted that in all cases a demand must first be made on the employer to be followed by a refusal to bring into existence an industrial dispute, it would in my opinion, tantamount to rewriting the definition of industrial dispute in section 2(k). It is clear that the Delhi and Orissa High Court overlooked the law laid down by the Supreme Court in *Bombay Union of Journalists v. the 'Hindu'* (1961) 11 LLJ 436 at 439 that an industrial dispute must be in existence or apprehended on the date of reference. I am conscious of the fact that the workman must raise the dispute with the employer and the employer must contest and it is only in that situation that it will be an industrial dispute, but the question is that such demand and refusal may take place for the first time before the conciliation officer and it is not necessary that it must occur before going to the conciliation officer. The matter has now been concluded by a recent Supreme Court decision in *Sadhu Ram Vs. Delhi Transport Corporation*, 1983 11 LLJ 383, Hon'ble Supreme Court observed at page 385 :

"The High Court appeared to think that the decision of this Court in *Sindhu Resettlement Corporation Ltd. Vs. Industrial Tribunal* (1968 1 LLJ 834), justified its conclusion that the failure of the conciliation proceedings and the reports of the Conciliation Officer to the Government were not sufficient to sustain a finding that there was an industrial dispute. This was also what was urged by the learned counsel for the respondents. The High

Court was in error in so thinking. In *Sindhu Resettlement Corporation Ltd. v. Industrial Tribunal* (supra) the question really was about the precise scope of the reference made by the Government for adjudication. Throughout it appeared that the only reference that the Government could have made related to the payment of retrenchment compensation which alone was the subject-matter of dispute between the parties. The conciliation which failed had also concerned itself with the question of payment of retrenchment compensation and in their claims before the management, the workmen had requested for payment of retrenchment compensation and raised no dispute regarding reinstatement. It was in those circumstances that the court held that there was no industrial dispute regarding reinstatement. We do not see how *Sindhu Resettlement Corporation vs. Industrial Tribunal* (supra) can be of any assistance to the respondents."

From the aforesaid observation it is quite clear that the report of the conciliation officer of the government is sufficient to sustain a finding that there was an industrial dispute. This Supreme Court case was followed recently by a division bench case of *Madras High Court in Ramkrishna Mills Ltd. v. The Government of Tamil Nadu*, 1984 (2) LLJ 259 in which it was held that the demand before the conciliation officer and the refusal before him were sufficient for the purpose. The same view had earlier been taken by the same High Court in *C Manual vs. Management of Indus (India) Ltd.*, 1981(2) LLJ (2) 102. The same view was expressed by a full bench of *Madhya Pradesh High Court*, 1975 Lab. IC 1409, though the facts of that case were slightly different. I am therefore, of the view that the *Sindhu Resettlement Corporation* case is of no help to *Sri N. C. Das Sharma*.

3. However, on the facts of this case it has to be held that industrial dispute was raised with the management as well as before the conciliation officer. Ext. W-5 dated 8th May, 1981 is a letter of the union to the Regional Labour Commissioner (C), Calcutta

"On this, we would like to bring your kind notice that Air India Management, Calcutta, through a letter dated 27-4-1981 has directed Mr. P. K. Saha to discontinue from the job of clerk and designated him as peon effective 1st May, 1981 thereby violated the I.D. Act 33. Our discussion with Personnel Officer on this subject did not make any change yet."

There is thus no doubt that the matter of reversion was directly raised by the union before the Regional Labour Commissioner. Ext. W-6 of July 1981 is regarding the joint discussion and adjourning the case to 30 July, 1981 by the Assistant Labour Commissioner (C). Ext. W-8 dated 21st April, 1982 is another letter of the union to the Assistant Labour Commissioner (C), Calcutta expressly making grievance against reversion. The management contested the claim of the union before the Assistant Labour Commissioner (C), Calcutta by writing a letter Ext. M-7—W-7 dated 29th July, 1981 and justifying the reversion in view of the ban imposed by the Head Quarter under circular Ext. W-10 read with an earlier circular dated 5th September, 1980. Thus a demand and refusal took place before the conciliation officer and this, in my opinion constitute industrial dispute.

Sri Das Sharma for the management argued that the union made representations on 18th March, 1981, on 8th April, 1981 and he also referred to the letter of the union to the Regional Labour Commissioner on 13th April, 1981 (Ext. W-4) and to Ext. M-3 dated 24th April, 1981 the last letter of the Assistant Labour Commissioner (C) to the management for discussion over the dispute of confirmation and he contended that these could not constitute industrial dispute because no grievance was made nor could it be made against reversion which took place subsequently on 1st May, 1981. He submitted that the union merely wanted confirmation of *Sri P. K. Saha* on the permanent post and did not raise any dispute regarding the reversion. *Sri Sharma* also made com-

ment on para 2 of Ext. M-1 which is an office memorandum of the Desk Officer, read with the failure report dated 27th May, 1982 of the conciliation officer and argued that the duty of the conciliation officer is to conciliate and not to pass any judgement. *Sri Sharma* submitted that the dispute before the conciliation officer was over the confirmation of *Sri P. K. Saha* and not against reversion and that it was not understandable how the dispute of reversion went to the government. In my opinion the contention of *Sri Das Sharma* is devoid of any merit. I think, *Sri D. I. Sengupta* for the union rightly referred to Ext. W-5 dated 8th May, 1981 and rightly contended that the union had raised industrial dispute with the Regional Labour Commissioner. He also referred to the content of Ext. W-5 and said that it spoke about discussion with the personnel officer. He also submitted that the failure report dated 27th May, 1982 of the Regional Labour Commissioner mentions about the demotion of *Sri P. K. Saha*. WW-1 *P. K. Saha* has said in his evidence that he as well as the union also raised dispute with the management. WW-2 *A. K. Mullick* the Chairman of the Corporation's Employees' Union has also deposed that they made representations before the management several times verbally. Their evidence is supported by probability. If *Mr. Saha* was reverted it will be natural conduct of the union of which he was member and it will also be natural for him to approach the management to undo what had been done. The management examined three witnesses. MW-1 *E. S. Lobo* the assistant personnel officer does not know anything about the appointment of *Sri Saha*. MW-2 *N. C. Aiyar* another personnel officer has denied demand by *Saha* or by his union but he has admitted in his evidence in cross-examination that joint discussion was held between him as representative of the management and the representative of the union in the office of the Assistant Labour Commissioner (C) for the first time on 8th May, 1981. His evidence of denial is not convincing. MW-3 *Mrs. S. Mulky* has spoken about the ban on recruitment. I am inclined to believe the evidence adduced on behalf of the union that dispute was raised with the management as well as before the conciliation officer. Hence the preliminary objection raised by *Sri Das Sharma* has no force and it is rejected. *Sri D. I. Sengupta* is right in contending that an industrial dispute was raised both with the management as well as before conciliation officer. I have already dealt with Exts W-5 and W-8, which clearly go to show that industrial dispute relating to reversion was pointedly raised with the conciliation officer. The point raised by *Sri N.C. Das Sharma* therefore must be repelled.

Merit

4. It is clear from the appointment letter Ext W-1—M-1 that *P. K. Saha*, peon, was appointed as a typist clerk on temporary basis w.e.f. 1-9-1978. That is also the evidence of MW-3 *Mrs S. Mulky* the Deputy Personnel Manager. During the period he worked as typist clerk he was paid the salary of typist clerk (see MW-2). He also admittedly got one additional increment as above-mentioned. He was given this temporary assignment of typist-clerk in order to give him the job experience so as to help him to qualify for the post of typist clerk against one of the vacancies which was kept unfilled since June 1973 and is still unfilled till date. In September 1980 and February 1981 the Head Quarter of AIR India issued ban. As a consequence of that *P.K. Saha* was reverted w.e.f. 1-5-81. Let us now have a picture of the exact nature of Ext. M-1—W-1 dated April 18, 1979 which is his appointment letter. It shows that there was a vacancy of typist at Calcutta, that *P.K. Saha* knew typing and hence the management asked him to perform the duties of typist effective from 1st September 1978. Para 2 of this appointment letter mentions the purpose for appointment. It was with a view to give motivation to *Mr. Saha* and to enable him to compete as and when selections were made for that post on permanent basis. It is obvious that he was appointed not for any fixed period or for any temporary period on any specific conditions but for indefinite period to enable him to compete as and when selections were made for permanent appointment. The clear purpose was to appoint him on permanent basis if he made himself fit and suitable by passing the trade test examination. There was no condition that if he failed once or twice in trade test, he will be reverted. Para 3 of Ext. W-1 makes it clear that he was to continue on that post till the vacancy was filled on permanent basis and till then he was given appointment to compete as and when selections were made. Under para 4 he was not entitled to any other claim such as promotion, seniority etc. That is right because he could be permanently appoint-

ed only if he succeeded in the trade test and if the rule permitted it. But it does not mean that he could be pulled down arbitrarily at any time without any notice to him before the vacancy was filled on permanent basis, because that will be against the terms of appointment letter para 2 and 3. Though Ext. W-1=M-1 is not styled as 'appointment letter' I have no doubt in my mind that it was an appointment letter appointing him on temporary basis with a clear purpose to help him (vide Ext. W-2 dated 7th/8th April, 1981) as per policy of the management (vide MW-1). Mr. Das Sharma himself said in the course of his argument that he may have continued on that post, had there been no ban. Ext. W-2 mentions the basic pay for the period during which he worked as typist, clerk and also the applicable allowances. So also Ext. W-7 dated July 29, 1981 which is a letter of the management to the Assistant Labour Commissioner (C), Calcutta mentions that he had been appointed as a Typist-clerk.

5. The only ground for reverting him to the post of peon is that there was ban on recruitment. For this purpose Sri Das Sharma strongly relied on the circular Ext. W-10 dated 27th February, 1981. This circular refers to an earlier circular dated 5th September, 1980. Both these circulars imposed a complete ban on all types of recruitment. Ext. W-10 says that the existing vacancies were frozen. It will be better if the whole of Ext. W-10 is quoted here, because it is the sheet anchor of the management for justifying the reversion. Ext. W-10 is the circular issued from the head quarter of Air India and it is addressed to all departmental heads. It is as under :—

"Subject.—Economy Measures.—Recruitment.—Please refer to Headquarters' circular No. HQ/14-52(14)/7168 dated 5th September, 1980 under which a complete ban was imposed on all types of recruitments and the existing vacancies were frozen. Only the vacancies which are absolutely essential for the operational reasons were to be filled in after specific approval of Headquarters. The Department Heads were also requested by the Dy. D.P.I.R. to review the requirements of casual labourers and reduce it by at least 20 per cent. It is, however, observed that through appointments are not made on permanent basis, vacancies are being filled in by temporary hands. You will agree that the very purpose of freezing the existing vacancies to reduce the expenditure on wage bill is defeated by engaging staff on temporary basis.

2. With a view to effectively implement the instructions contained in the Headquarters' circular referred to above, all the temporary appointments made after the issue of the above referred circular, except those for which Headquarters' specific approval has been obtained, should be dispensed with, with immediate effect. Similarly, appointment of casual labourers should also be reduced to 20 per cent. Action taken in this regard may be intimated latest by 9th March, 1981 for the information of the Dy. M.D./Chairman."

In my opinion this circular is not applicable to the case of Sri P. K. Saha. It is not retrospective. It does not undo what has been done earlier. Sri P. K. Saha was posted as Typist-clerk with effect from 1st September, 1978. Clearly an expectation was expressly created in his mind that he would continue on the post till the vacancy is filled on permanent basis and during that period he was to be given opportunity to appear in the written/trade tests. In fact the evidence of MW-1 H. S. Lobo the assistant personnel officer is that in between 1st September, 1978 and 1st May, 1981 P. K. Saha appeared twice in the trade test. He has appeared twice earlier also and even after reversion on 10th August, 1983. Ext. W-9 and M-13 are documents in connection with the trade test. It appears that Sri P. K. Saha was again given opportunity to appear in the trade test on 6th April, 1984. He may have appeared but the result is not known to this Tribunal. However, earlier failure in the trade test is not material for the purpose of this case because reversion was on the ground of ban on recruitment and not on the ground of failure in the trade test. It may be pointed out that though after 1st September, 1978, he is said to have failed twice, he was not reverted; rather he was allowed to continue. He was

reverted, as already started, on the ground of ban on recruitment. How it is quite clear that the post has not been abolished. It is also clear that the ban was not permanent. In fact another man seems to have been posted thereon temporary basis in the place of Mr. P. K. Saha. This shows that the post was not affected by the circular and there was no good reason for reverting Mr. P. K. Saha. The management was not going to recruit anybody after the circular of 1980 or 1981. Mr. Saha was already there with effect from 1st September, 1978. I do not understand as to how Mr. P. K. Saha could be reverted on the ground of ban on recruitment. The reason for his reversion, I think, is wholly unjustified. It seems to me that because in April 1981 Mr. P. K. Saha through his union approached the conciliation officer, this may have caused annoyance to the management and hence a ground was picked up, namely, the ground of ban on recruitment and he was reverted. The circular did not ask the management of Air India, Calcutta to remove a person already appointed earlier. It only banned further appointment for some time. Ext. W-10 thus does not affect the case of Mr. P. K. Saha. Sri Das Sharma argued that the fact of ban was not under challenge, that the witnesses of the management also deposed about the ban on recruitment and that Ext. W-10 shows a complete ban on recruitment. It is true that the union has not challenged the factum or validity of the ban but I have already said that the ban does not affect the case of Mr. P. K. Saha. The point thus has no force.

6. It is also to be noticed that no notice was given earlier to Mr. P. K. Saha about the reversion. His evidence is that for the first time he received Ext. W-3, namely, the order of reversion on 1st May, 1981 at 4.30 P.M. In my opinion Mr. P. K. Saha should have been given opportunity to present his case before he was reverted. This having not being done, justice was denied to him.

7. After having considered the facts and circumstances and submissions raised by the parties my concluded award is that the action of the management of the Air India (Eastern Zone), Calcutta in reverting Sri P. K. Saha from the post of typist-clerk to the post of peon with effect from 1st May 1981 on the ground of ban on recruitment was unjustified. It follows that the concerned workman is entitled to be reinstated to the post of typist-clerk which he earlier occupied and the management is ordered to reinstate him to that post within one month of the publication of this award giving him full back wages, namely the difference of wages between the pay of peon and the pay of typist-clerk and other service benefits which may be admissible under the rules and under the terms of his appointment letter Ext W-1 dated April 18, 1979. Mr. P.K.Saha will remain on that post for the period as contemplated in his appointment letter Ext. W-1 dated 17 April 1979 and may permanently be appointed on that post if found fit at the time of appointment on permanent basis.

Dated, Calcutta 19th September, 1984.

M. P. Singh, Presiding Officer.

[No. L-11012(2)/82-D. II. B]

HARI SINGH, Desk Officer

नई दिल्ली, 11 अक्टूबर, 1984

का० आ० 3391.—केन्द्रीय सरकार, न्यूनतम मजदूरी अधिनियम, 1948 (1948 का 11) की धारा 9 के साथ पठित धारा 7 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, भारत सरकार के श्रम मंत्रालय की तारीख 17 मई, 1982 की अधिसूचना संख्या का०आ० 325 (अ) में, जिसमें अधिसूचना संख्या का०आ० 3225, तारीख 11 सितम्बर, 1982 द्वारा संशोधन किया गया था, निम्नलिखित संशोधन करती है, अर्थात् :—

उक्त अधिसूचना में "नियोजकों के प्रतिनिधि से संबंधित मद संख्या-II में, क्रम संख्या 9 और उससे सम्बद्ध प्रविष्टियों के लिए निम्नलिखित प्रतिस्थापित किया जाएगा, अर्थात् :—

“9. श्री एस० एस० राव,

कुदरेमुख आयरन ओर कम्पनी लिमिटेड,

II ब्लॉक, कोरामंगल,

बंगलौर-560034

[सं० एस-32023/16/83-इक्यू०सी० (एम० इक्यू०)]

जगदीश जोशी, निदेशक

New Delhi, the 11th October, 1984

S.O. 3391.—In exercise of the powers conferred by Section 7 read with section 3 of the Minimum Wages Act, 1948 (11 of 1948), the Central Government hereby makes the following amendment in the notification of the Government of India in the Ministry of Labour S.O. 325(E) dated 17th May, 1982 and modified vide S.O. No. 3225 dated 17th September, 1982, namely :—

In the said notification in item II relating to “Representative of employers for serial number 9 and entries relating thereto the following shall be substituted namely :—

“9. Shri S.S. Rao,
Kudremukh Iron Ore Co. Ltd.,
II Block, Koramangala,
Bangalore-560034.

[No. S-32023/16/83-W.C. (M.W.)]

JAGDISH JOSHI, Director

New Delhi, the 12th October, 1984

S.O. 3392.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Regional Labour Commissioner (Central), Dhanbad and Arbitrator in the industrial dispute between the employers in relation to 62 employers of Stone Mining Industry of Pakur area represented by Quarries Owners Association, Pakur and their workmen represented by Quarries Workers Union, Pakur was received by the Central Government on the 9th October, 1984.

BEFORE SHRI S. P. SINGH, REGIONAL LABOUR COMMISSIONER (CENTRAL) DHANBAD AND ARBITRATOR APPOINTED UNDER SECTION 10-A OF THE INDUSTRIAL DISPUTES ACT, 1947

PARTIES :

Owners of 62 Stone Mines of Pakur Area P.O. Pakur,
Distt. Sahibganj. ...Employers

AND

Quarries Workers Union (INTUC), At & P.O. Pakur,
Distt. Sahibganj.

APPEARANCES :

For Employers :

1. Shri B. N. Kedia, Vice-President, Quarry Owners' Association, At & P.O. Pakur, Dist. Sahibganj.
2. Shri Namdeo Mandhyan, General Secretary Quarry Owners' Association, At & P.O. Pakur, Dist. Sahibganj.
3. Shri Sadhanlal, Secretary, Quarry Owners' Association, At & P.O. Pakur, Dist. Sahibganj.

For workmen :

1. Shri Mahendra Iha, President, Quarries Workers Union, At & P.O. Pakur, Dist. Sahibganj.
2. Shri Dashrath Mishra, General Secretary, Quarries Workers Union, At & P.O. Pakur, Dist. Sahibganj.

STATE : Bihar

INDUSTRY : Stone Mining

AWARD

There was an industrial dispute between the Owners (employers) of 62 stone mines of Pakur area Dist Sahibganj and their workmen represented by Quarries Workers Union, Pakur (INTUC) over the revision of wage scales of monthly rated employees. As per the settlement dated 17-4-84 under Section 12(3), I.D. Act, 1947 the parties agreed to refer the above matter to the arbitration of Shri S. B. Singh, Regional Labour Commissioner (Central), Dhanbad under Section 10-A of I.D. Act, 1947. In pursuance of the above settlement the following specific matter was notified under sub-section (3) of Section 10-A of the I.D. Act, 1947 under Notification No. L-29013/2/84-D.IIIB dated 8-6-1984 by the Government of India, Ministry of Labour & Rehabilitation (Department of Labour), New Delhi.

Specific matters in dispute

“Whether the demand of the workmen of Stone Mining Industry of Pakur area regarding revision of wages of monthly paid employees as detailed below keeping in view of the earlier settlements dated 4-12-79 and 27-4-82 and revision of the minimum wages by the Central Government from time to time is justified? If so, to what relief the workmen are entitled?”

Sl. No.	Name of the categories	Scale of pay
1.	Foreman	Rs. 1000-50-2000-EB-75-2750
2.	Permit Manager	Rs. 1200-50-2200-EB-75-2950
3.	Accountant (Experienced)	Rs. 700-40-1500-EB-50-2000
4.	Head Clerk	Rs. 600-40-1400-EB-50-1900
5.	Time Keeper	Rs. 600-40-1400-EB-50-1900
6.	Cashier	Rs. 600-40-1400-EB-50-1900
7.	Mate (Qualified)	Rs. 600-40-1400-EB-50-1900
8.	Store Keeper	Rs. 500-40-1300-EB-50-1800
9.	Typist	Rs. 530-40-1350-EB-50-1850
10.	Clerk	Rs. 500-40-1300-EB-50-1800
11.	Truck Driver	Rs. 500-40-1300-EB-50-1800
12.	Mate or Sardar (Unqualified)	Rs. 500-40-1300-E5-50-1800
13.	Night Guard	Rs. 350-40-1150-EB-50-1650
14.	Darwan	Rs. 350-40-1150-EB-50-1650
15.	Mechanic (Electric, Diesel and others)	Rs. 600-40-1400-EB-50-1900

- (ii) Details of the parties to the dispute including the name and address of the establishment or undertaking involved.
62 employers of Stone Mines as detailed in Annexure-'A'
- (iii) Name of the Union (Representing workmen).
Quarries Workers Union (INTUC), Pakur, Recognised, P.O. Pakur, Dist. Sahibganj.
- (iv) We further agreed that the award shall be binding on us.
- (v) The Arbitrator shall make his award within a period of three months from the date of publication of this agreement in the official Gazette by the appropriate Government or within such further time as extended by mutual agreement between us in writing."

During the course of hearing on 4-9-84 the parties agreed to extend the time of arbitration from 3 to 4 months.

2. The case of the workmen is that pay scales of monthly paid employees engaged in the Stone Mines of Pakur Area had been fixed as per settlement dated 4-12-79 in which besides scale of pay the D.A. @ Rs. 37.50 paise P.M. had been allowed to the workmen. As per the settlement dated 27-4-82 the D.A. was increased from Rs. 37.50 to Rs. 72.50. The cost of living have since increased and the minimum wages of the workers have also been revised from time to time. In view of the above, the above categories of workmen should be paid the scale of pay as demanded by the union as detailed in the specific matter of the dispute mentioned above. The present rate paid to monthly paid employees are very low. There has been an increase in the minimum rates of wages from 1979 to 1983 to the extent of 63 per cent. Some of the Foreman are still being paid wages varying from Rs. 1,000 to Rs. 1,200 per month. In view of the above, the demand of the union is fully justified.

3. The employers submitted their contention under their letters dated 20-8-84 and 21-8-84. The contention of the employers is that Stone Mines at Pakur have been passing through very critical period and are facing competition by neighbouring State of West Bengal where the rates of wages and royalty are lower than that of Pakur area. The rate of royalty in State of Bihar is @Rs. 17.00 per 100 Cft. whereas in West Bengal it is only Rs. 4.95 per 100 Cft. The rate of supply of Electricity in Bihar is higher than the rate of Electric tariff in West Bengal. While there is a fixed minimum charge of nearly Rs. 40.00 per H.P. per month payable by a Consumer in Bihar even without being able to use Electricity as the supply of electricity is very much erratic. In West Bengal there is no such charge and electricity supply is more regular. In view of the above the cost of production

of Pakur Stone is already higher than in West Bengal. Moreover, the Stone Mines are also operating in Monghyr, Gaya, Singhbhum Rohtas and Palamau Districts of Bihar and neighbouring Mirzapur District in Uttar Pradesh where wages are lower than Pakur Area. In case there is any increase over the minimum wages for the employees of Pakur area, the employers will be placed in adverse position and they will not be able to compete with their counter part employers in West Bengal and at other places in Bihar and U.P. which may result in closure of the mines. The settlement dated 4-12-79 and 27-4-82 are still in operation as the said settlements have not been terminated. The minimum rates of wages have been revised by the Government of India from time to time and the same cover all the categories of employments including foreman, Accountant, Clerks, Time Keeper, Cashier, Mate, Store Keeper, Typist, Driver Night Guard Mistry and others. The rates prescribed for Stone Mines are similar to other mines such as Kynite Fireclay, Asbestos etc. The scales demanded by the union are fanatic without any justification and hence the same should be rejected. The employers are not capable to pay higher rates than the minimum wages fixed by the Government of India which is applicable to the Stone Mines throughout the country.

4. I have examined the contentions of the workmen and the employers. After publication of the Notification dated 8-6-1984 the matter was heard on 5-7-84, 3-8-84, 21-8-84, 4-9-84 and finally on 14-9-84 in the presence of the parties. The parties have submitted their contentions which have been mentioned above. From the specific matter in dispute it will be seen that the demand for revision of wages are based on the following factors :—

- (a) Settlement dated 4-12-79
- (b) Settlement dated 27-4-82.
- (c) Revision of minimum wages of the workmen of Stone Mining Industries from time to time.

The above factors are discussed below :—

- (a) Settlement dated 4-12-79.

As per the above settlement under Section 12(3) of the I.D. Act, 1947 the wages of workmen of all categories such as piece-rated, daily rated and monthly rated were revised. The dispute relating to daily-rated and piece-rate workmen has been resolved as per the settlement before me on 6-1-84 but the dispute relating to monthly paid employees could not be resolved and the parties agreed to my arbitration. In the settlement dated 4-12-79 the rates of wages of time-rated monthly paid and daily workmen were fixed as follows :—

Scale of pay

Rs. 500-20-800-25-1000 Plus D.A. Rs. 37.50 p.m.
Rs. 300-15-450-20-750 and D.A. Rs. 37.50
Rs. 200-10-250-15-550 and D.A. Rs. 37.50 per month.
Rs. 300-15-375-20-775 and D.A. Rs. 37.50 per month.
Rs. 200-10-250-15-550 and D.A. Rs. 37.50 per month.

Rs 200-10-250-15-475-20-575 and D.A. Rs. 37.50 per month.

Rs. 225-10-275-15-425-20-625 and D.A. Rs. 37.50 per month.
Rs. 150-8-280- and D.A. Rs. 32.50 per month.

Rs. 165-8-245-10-345-15-420 and D.A. Rs. 32.50 per month.

Rs. 150-6-210-8-340 D.A. Rs. 32.50 per month

Rs. 6/- per day.

B. Monthly rates workmen.

1. Foreman (with mining Certificate)
2. Mate
3. Blaster
4. (a) Mistry Grade —'A' with knowledge of handling of Engine and Crushing machinery.
(b) Mistry Grade —'B'

C. Clerical Staff:

1. (a) Cashier
(b) General Clerk
(c) Pay Clerk
(d) Register Keeper
(e) Loading Supervisor
(f) Store Keeper
2. Accountant
3. (a) Night Guard
4. (a) Mines Dafadar
(b) Machine Supervisor
(c) Blast and Chelly Supervisor.
5. (a) Peon
(b) Mali

Time-rated daily paid

- (i) Hajiri Mazdoor

After the revision of the minimum wages by the Government of India during the year 1980, 1981 (2-12-1981) the workmen raised an industrial dispute for revision of wages and ultimately as per the settlement dated 27-4-82 it was agreed that the scale of pay of the monthly paid employees remained the same as in the settlement dated 4-12-79. The D.A. was, however, increased from Rs. 37.50 to Rs. 72.50 in respect of Foreman, Mate, Blaster, Mistry Cashier Clerk Loading Supervisory, Accountant and from Rs. 32.50 to Rs. 62.50 per month in respect of Night Guard, Mines Dafadar, Machine Supervisor, Ballast and Chelly Supervisor. The rate of daily-rated Hajiri Mazdoor (time-rated) was increased from Rs. 6 to Rs. 7.80 per day.

With the revision of minimum wages by Central Government in the month of October, 1982 and October, 1983, the union have raised industrial disputes for the revision of

wages. As regards the dispute relating to the wages of daily-rated (time-rated) and piece-rated workers the same were revised as per the settlement dated 6-1-84 before me under Section 12(3) of the I.D. Act, 1947. But the matter relating to monthly rated employees could not be resolved and ultimately the same was referred to my arbitration under Section 10-A of the Act. The minimum wages have been revised by the Government of India from time to time in respect of time-rated employees engaged in Stone Mining Industry and the wages of the workers of Stone Mines of Pakur area have also been settled in the light of the revision of minimum wages from time to time. It is, therefore, necessary to make a comparative study of the wages fixed by the Government under M.W. Act and the wages agreed under the Settlements. The comparative picture is as under :—

Category of workers.	Minimum rates of wages as fixed by the Govt. under M.W. Act, 1948. As per minimum wages fixed in 1979.	The wages fixed for the workers as per settlements between employers of Pakur area and their workmen As per Settlement in 1979 (4-12-79)
(i) Hajiri Mazdoor (Un-skilled)	Rs. 5.65 per day.	(i) Rs. 6/- per day.
(ii) For Skilled or Clerical Foreman, Mate, Blasters, Accountants Clerks etc.	@Rs. 8.75 per day i.e. Rs. 227.50 P.M.	(ii) Foreman (with mining Certificate) Rs. 500-20-800-25-1000 & D.A. Rs. 37.50. (iii) Mate—Rs. 300-15-450-20-750 and D.A. Rs. 37.50 (iv) Blaster Rs. 200-10-250-15-550-Plus D.A. Rs. 37.50 (v) Mistry Gr. 'A' Rs. 300-15-375-20-775 plus D.A. Rs. 37.50 (vi) Mistry Gr. 'B' Rs. 200-10-250-15-550 Plus Rs. 37.50 D.A. (vii) Accountant—Rs. 225-10-275-15-425-20-625 Plus D.A. Rs. 37.50 (viii) Cashier, Clerks, Store Keeper, Record Keeper, Loading Supervisor Rs. 200-10-250-15-475-20- 575 plus D.A. Rs. 37.50 (ix) Night Guards Rs. 150-8-230 Plus D.A. Rs. 32.50 (x) Mines Dafadars, Machine Supervisor, Ballast & Chelly Supervisors Rs. 165-8-245-10-345-15- 420 (xi) Peons/Mali Rs. 150-6-210-8-340 Plus. Rs. 32.50 D.A.
	As per minimum wage fixed in 1981.	As per settlement dated 27-4-82 (Based on minimum wages of 1981)
(i) Unskilled Hajiri Mazdoor	Rs. 7.75 per day.	Rs. 7.80 per day
(ii) Foreman, Mates, Clerks, Accountants, Store Keepers etc.	Rs. 11.75 per day i.e. Rs. 305.50 P.M.	As per settlement dated 27-4-82, the scale of pay remained same as fixed in the settlement dated 4-12-79. The D.A. was however increased from :— (a) Rs. 37.50 to Rs. 72.50 P.M. (b) Rs. 32.50 to Rs. 62.50 P.M.
	As per minimum wage fixed in 1983 (29-10-83)	As per settlement dated 6-1-84 (Based on minimum wage fixed on 29-10-83).
(i) Unskilled Hajiri Mazdoor, Mali	Rs. 9.75 per day.	Rs. 9.80 per day.
(ii) Semi-skilled. (Jamadar etc.)	Rs. 12.25 per day i.e. Rs. 318.50 per month.	
(iii) Skilled & Clerical (including Foreman, Accountant, Mates, etc.)	Rs. 15.00 per day i.e. Rs. 390/- per month.	

From the above it will be observed that the wages fixed under the settlements in 1979 and 1982 are slightly higher than the minimum wages fixed by the Government of India under M.W. Act operative at the relevant time excepting in the case of the Foreman and the Mates. The scales of pay of the Foreman and the Mates are already higher than the latest minimum wages fixed by the Govt. of India under Notification No. 762(F) dated 19-10-83 whereas the scales of other monthly rated employees are lower. During the course of hearing I was informed that all the employees are now being paid as per wages fixed under the above notification. As per the Notification No. 762(E) dated 19-10-83 of the Government of India, Ministry of Labour and Rehabilitation, the minimum wages fixed for the employees engaged in Stone Mines, the rates of wages fixed are inclusive

rates including basic rates, cost of living allowances, the cash value of concessional supply, if any and includes the wages payable for weekly day of rest.

Keeping in view of the existing scales of pay, the rates of minimum wages fixed from time to time and also in view of the financial position of the industry, I hereby revise the scales of pay for various categories of monthly paid employees engaged in the Stone Mines and Crushers as under. With this revision of the scale the payment of Dearness Allowance which were in vogue till date will be dispensed with. The wages will be fixed in the scales of pay as mentioned below. In case some of the employees are already being paid higher wages, the same will be protected.

Sl. Designation & Nature of work No.	Existing scale of pay	Revised scale of pay by the Arbitrator
1. Foreman & Permit Manager (with mining certificate)	Rs. 500-20-800-25-1000-plus Rs. 72.50 as D.A.	Rs. 640-35-920-40-1160
2. Mates & Mechanics	Rs. 300-15-450-20-750-Plus D.A. Rs. 72.50	Rs. 415-20-535-30-835
3. Blaster	Rs. 200-10-250-15-550 Plus D.A. Rs. 72.50	Rs. 405-15-465-20-625
4. (a) Mistry Grade—'A' (with knowledge of machinery of crushers) and Truck Drivers.	Rs. 300-15-375-20-745 Plus D.A. Rs. 72.50	Rs. 415-20-535-30-835
(b) Mistry Grade—'B'	Rs. 200-10-250-15-550 Plus D.A. Rs. 72.50	Rs. 405-15-465-20-625
CLERICAL:		
5. Accountant & Head Clerk.	Rs. 225-10-275-15-425-20-625 plus D.A. Rs. 72.50	Rs. 415-20-535-30-835
6. Clerk, Cashier, Typist, Register Keeper, Loading Supervisor, Store Keeper, Time Keeper.	Rs. 200-10-250-15-550 Plus D.A. Rs. 72.50	Rs. 405-15-465-20-625
7. Night Guard	} Rs. 150-8-230 plus D.A. Rs. 62.50 Rs. 165-8-245-10-345-15-420 plus D.A. Rs. 62.50 Rs. 150-6-210-8-340 plus D.A. Rs. 62.50	} Rs. 330-12-438
8. Mines Dafedar		
9. Machine Supervisor		
10. Ballast & Chelly Supervisor		
11. Peon		
12. Mali		

The other categories, if any, will be fixed in the scale of similar nature. Award accordingly and the parties will bear their own cost.

Dated, the 1st October, 1984.

S. B. SINGH, I
Regional Labour Commissioner (Central), Dhanbad
AND
Arbitrator Under Section 10-A of the I.D. Act, 1947
[No. L-29013(2)/84-D. III B]
NAND LAL, Under Secy.

ANNEXURE

1. M/s. Kewal Stone Works, Pakur.
2. M/s. Dipchand Gurmukh Das, Pakur.
3. M/s. Govind Ram & Co., Pakur.
4. M/s. Jial Das & Co., Pakur.
5. M/s. National Black Stone Works, Pakur.
6. M/s. Banshi Stone Works, Pakur.
7. M/s. Naitram Sagamail, Pakur.
8. M/s. A. Sarkar & Co., Pakur.
9. M/s. Radha Stone Works, Pakur.
10. M/s. P. C. Ganguly & Sons, Pakur.
11. M/s. All India Stone Works, Pakur.
12. M/s. S. K. Dutta & Co., Pakur.
13. M/s. Cee Bee Stone Works, Pakur.
14. M/s. B. N. Saha & Co. (P) Ltd., Pakur.
15. M/s. Lakshi Stone Works, Pakur.
16. M/s. Sambu Pd. Bhagat, Pakur.
17. M/s. Mariwala Stone Works, Pakur.
18. M/s. Hazarilal Tirthani, Pakur.
19. M/s. Venjhar Pakur Stone Factory, Pakur.
20. M/s. Black Diamond Stone Co., Pakur.
21. M/s. Bachalal Singh & Bros., Pakur.
22. M/s. Shibshankar Stone Works, Pakur.
23. M/s. Bhattacharje & Co., Pakur.
24. M/s. Kailash Stone Works, Pakur.
25. M/s. R.R.S. & Co., Pakur.
26. M/s. Bhagwandas Rajdev, Pakur.
27. M/s. Pakur Quarries (P) Ltd., Pakur.
28. M/s. Kulwant Singh, Pakur.
29. M/s. Raghubir Singh, Pakur.

30. M/s. Kuldip Singh, Pakur.
31. M/s. Nevandas Kanhailal, Pakur.
32. M/s. Refulgent Stone Works, Pakur.
33. M/s. Hindustan Granite Stone Wrks, Pakur.
34. M/s. S. B. Stone Works, Pakur.
35. M/s. Lakhmani Stone Products, Pakur.
36. M/s. Hansraj & Co., Pakur.
37. M/s. Shilparbati Stone Works, Pakur.
38. M/s. Pakur Hill Syndicate, Pakur.
39. M/s. Sunderdas Lakhmani, Pakur.
40. M/s. Ottan Das Co., Pakur.
41. M/s. Jaibharat Construction Co., Pakur.
42. M/s. Master Sunderdas & Sons, Pakur.
43. M/s. Vasant Stone Works, Pakur.
44. M/s. Shanti Stone Works, Pakur.
45. M/s. Dayal Stone Products, Pakur.
46. M/s. Mandhyan Mineral Corporation, Pakur.
47. M/s. Chabaria Engineering Works, Pakur.
48. M/s. G. C. Pandey & Co., Pakur.
49. M/s. Shri Durga Sone Works, Pakur.
50. M/s. S. L. Gangawani, Pakur.
51. M/s. Hindusthan Industries & Mining Corpl., Pakur.
52. M/s. Mahadeb Black Stone Co., Bakudih.
53. M/s. Jaldas & Co., Kabudih.
54. M/s. Modern Construction Co., Pakur.
55. M/s. Narsingh Chawda, Bakudih (S.P.).
56. M/s. Tikkam Das, Owner, Modikola Stone Mines, Pakur.
57. M/s. Mahabir Stone Supply Co., Pakur.
58. M/s. Maa Tara Stone Supply Co., Pakur.
59. M/s. Vishnu Stone Supply Co., Pakur.
60. M/s. Santoshi Maa Stone Works, Pakur.
61. M/s. Bhagwan Das & Co., Pakur.
62. M/s. Dilip Singh, Pakur.

नई दिल्ली, 12 अक्टूबर, 1984

का० भा० 3393.—लोह अयस्क खान और मैंगनीज खान श्रम कल्याण निधि नियम, 1978 के नियम 3 के उप-नियम (2) के साथ पठित लोह अयस्क खान श्रम कल्याण अधिनियम, 1976 (1976 का 61) की धारा 5 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार भारत के राजपत्र के भाग II, खंड 3, उपखंड (ii) दिनांक 2-4-1983 के पृष्ठ 1764 पर प्रकाशित भारत सरकार के श्रम मंत्रालय की अधिसूचना का० भा० संख्या 1765 दिनांक 16 मार्च, 1983 में निम्नलिखित संशोधन करती है, अर्थात्:—

उक्त अधिसूचना के क्रमांक 5 और 6 के सामने की गई प्रविष्टि के सामने निम्नलिखित रखा जाएगा, अर्थात्:—

5. "श्री एम० एल सर्वांगी,
निवेशक, सर्वांगी एंड कं.,
चीपुरुपल्ली, विजयानगर,
आन्ध्र प्रदेश-532128
6. श्री एम० बी० रामा राव,
कार्मिक प्रबन्धक,
विशाखापत्तनम स्टील प्लांट,
विशाखापत्तनम (आन्ध्र प्रदेश)

[सं० यू०-23017/4/80-एम० IV/डब्ल्यू० II]

कंवर राजिन्द्र सिंह, अवर सचिव

New Delhi, the 12th October, 1984

S.O. 3393.—In exercise of the powers conferred by section 5 of the Iron Ore Manganese Ore Mines Labour Welfare Fund Act, 1976 (61 of 1976) read with sub-rule (2) of Rule 3 of the Iron Ore Manganese Ore Mines Labour Welfare Fund Rules, 1978 the Central Government makes the following amendments to the notification of the Government of India in the Ministry of Labour S.O. No. 1765 dated 16th March, 1983, published at pages 1764 of the Gazette of India, Part II, Section 3, Sub-Section (ii) dated 2nd April, 1983, namely:—

In the said notification for the entry against serial No. 5 and 6, the following shall be substituted namely:—

5. "Shri M. L. Sarwagi,
Director,
Sarwagi & Co.,
Cheepurupally, Vizianagaram,
Andhra Pradesh-532128.
6. Shri M. B. Rama Rao,
Personnel Manager,
Vishakhapatnam Steel Plant,
Visakhapatnam (A.P.).

[F. No. U-23017/4/80-M.IV/W.II]
KANWAR RAJINDER SINGH, Under Secy.

New Delhi, the 12th October, 1984

S.O. 3394.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal, Chandigarh in the industrial dispute between the employers in relation to the management of Food Corporation of India and their workmen, which was received by the Central Government on the 5th October, 1984.

BEFORE SHRI L. P. VASISHTH, PRESIDING OFFICER,
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL,
CHANDIGARH

Case No. I.D. 13 of 1983

PARTIES:

Employers in relation to the Management of Food Corporation of India.

AND

Their Workmen—Harmesh Kumar & Others.

APPEARANCES:

For the Employers—Shri Gurdas Ram.

For the Workmen—Shri Pawan Kumar Singla.

ACTIVITY: Food Corporation of India. STATE: Punjab.

AWARD

Dated, the 29th September, 1984

The Central Government, Ministry of Labour, in exercise of the powers conferred on them under Section 10(1)(d) of the Industrial Disputes Act, 1947, hereinafter referred to as the Act, per their Order No. L-42012/11/82-D.IV(a) dated the 27th of August, 1982 read with S.O. No. S-11025(2)/83 dated the 8th of June, 1983 referred the following industrial dispute to this Tribunal for adjudication:—

"Whether the action of the management of Food Corporation of India in not regularising the workmen whose names are mentioned in the Annexure, in the scale of Rs. 210-240 is justified? If not, to what relief are the concerned workmen entitled?"

ANNEXURE

S.No.	Name of the Workmen	Father's Name
1.	Shri Harmesh Kumar	Shri Tek Chand
2.	Shri Kishore Chand	Shri Prabhu Dayal
3.	Shri Labh Singh	Naranjan Singh
4.	Shri Surjit Singh	Shri Sohan Singh
5.	Shri Baldev Singh	Shri Sant Singh
6.	Dev Raj	Shri Gopal Singh
7.	Shri Surinder Singh Walia	Shri Pritam Singh
8.	Shri Ashok Kumar	Shri Jamna Dass
9.	Shri Satpal Singh	Shri Karnail Singh
10.	Shri Ram Rattan	Shri Dal p Singh
11.	Shri Kewal Krishan	Shri Bant Ram
12.	Shri Gian Chand	Shri Charanji Lal.
13.	Shri Roop Chand	Shri Des Raj
14.	Shri Raj Kumar	Shri Ram Parkash
15.	Shri Kowal Singh	Shri Teja Singh
16.	Shri Karnail Singh	Shri Ram Karan Singh.
17.	Shri Hardev Singh	Shri Jangir Singh
18.	Shri Bahadur Singh	Shri Sardara Singh
19.	Shri Joginder Singh	Shri Dalbara Singh
20.	Shri Gurdev Singh	Shri Bhajan Singh
21.	Shri Avtar Singh.	Shri Sadara Singh
22.	Shri Kashmira Singh	Shri Moti Singh
23.	Shri Major Singh	Shri Kapoor Singh
24.	Shri Mohinder Singh	Shri Jagar Singh
25.	Shri Gobind Singh	Shri Pritam Singh
26.	Shri Shamsher Singh	Shri Kapoor Singh
27.	Shri Baldev Singh	Shri Banta Singh
28.	Shri Harbans Masih	Shri Harnam Masih.

2. The instant reference was consolidated and tried together with reference No. L-42011(24)/81-FCI-D.IV(A) dated the 1st of May, 1982 pertaining to a similar dispute between the same employer and a number of workmen viz. Labh Singh and others since they involved common questions of fact and law. A formal order to this effect was passed by me on 20th February, 1984 on the recorded request of the parties; obviously to avoid any apprehension of conflict in findings, multiplicity of proceedings and undue financial strains to them.

3. The aforesaid reference of Labh Singh and others has since been decided today and thus for the reasons detailed therein, on sustaining the petitioners' (Workmen) cause in its pith and substance I return my Award in their favour.

Chandigarh.

29-9-1984.

I. P. VASISHTH, Presiding Officer
[No. L-42012(11)/82-D.IV(A)/D.V.]

S.O. 3395.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal Chandigarh in the industrial dispute between the employers in relation to the management of Food Corporation of India, and their workmen, which was received by the Central Government on the 5th October, 1984.

BEFORE SHRI I. P. VASISHTH, PRESIDING OFFICER,
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL,
CHANDIGARH

Case No. I.D. 16 of 1983

Employers in relation to the Management of Food Corporation of India.

AND

Their Workmen—Jagpal Singh & Others.

960 GI/84—6

APPEARANCES :

For the Employers—Shri Gurdas Ram.

For the Workmen—Shri Pawan Kumar Singla.

ACTIVITY : Food Corporation of India. STATE : Punjab.

AWARD

The Central Government, Ministry of Labour, in exercise of the powers conferred on them under Section 10 (1)(d) of the Industrial Disputes Act, 1947 hereinafter referred to as the Act, per their Order No. L-42011(15)/81-D.IV(A) dated the 16th of November, 1981 read with S.O. No. S-11025(2)/83 dated the 8th of June, 1983 referred the following industrial dispute to this Tribunal for adjudication :—

“Whether the demand of workmen of the Food Corporation of India, Chandigarh for regularisation of the undermentioned daily rated casual watchmen employed at Sunam Lehragaga, and Sangrur Food Storage Depots in the scale of Rs. 210—240, is justified? If so to what relief are the concerned watchmen entitled?

NAMES OF WATCHMAN

SUNAM

1. Shri Jagpal Singh
2. Shri Jarnail Singh S/o Shri Chand Singh.
3. Shri Nek Singh
4. Shri Prem Singh
5. Shri Krishan Chand
6. Shri Jagtar Singh
7. Shri Mohinder Singh
8. Shri Narang Singh
9. Shri Devkinandan
10. Shri Jagga Singh
11. Shri Jarnail Singh S/o Shri Jang Singh
12. Shri Baljit Singh
13. Shri Jarnail Singh S/o Shri Gajjan Singh
14. Shri Bharpur Singh
15. Shri Prem Lal Rulda
16. Shri Subhash Kumar
17. Shri Devinder Singh
18. Shri Dharampal
19. Shri Gurdev Singh
20. Shri Lal Singh
21. Shri Surjit Singh
22. Shri Krishan Kumar
23. Shri Gurdial Singh
24. Shri Ajaib Singh
25. Shri Amarjit Singh
26. Shri Baltej Singh

LEHRAGAGA

1. Shri Veeshnu Parshad
2. Shri Mohinder Kumar
3. Shri Ajaib Singh
4. Shri Ram Sarup
5. Shri Sakabear Singh
6. Shri Mohinder Singh
7. Shri Gurharan Singh
8. Shri Ruldu Ram
9. Shri Hukam Chand
10. Shri Hans Raj
11. Shri Johu Son
12. Shri Shanti Sarup
13. Shri Gurcharan Singh
14. Shri Bhartmanand
15. Shri Lila Singh
16. Shri Devindar Singh

17. Shri Mohinder Pal
18. Shri Baharpur Singh
19. Shri Suraj Bhan

SANGRUR PROPER

1. Shri Rajinder Singh
2. Shri Kerem Singh
3. Shri Shital Singh
4. Shri Sadhu Ram
5. Shri Satinder Singh
6. Shri Mthu Ram
7. Shri Range Nath Singh
8. Shri Mangat Ram
9. Shri Jit Gir
10. Shri Harbhajan Singh
11. Shri Pritam Singh
12. Shri Amarjit Singh
13. Shri Amar Nath
14. Shri Mangal Ram
15. Shri Ravinder Singh
16. Shri Karan Vir Singh
17. Shri Som Nath
18. Shri Narinder Pal
19. Shri Jagjit Kumar
20. Shri Puran Chand
21. Shri Manohar Lal S/o Shri Matwal Chand
22. Shri Manohar Lal S/o Shri Subba Ram
23. Shri Satyandir Singh

2. The instant reference was consolidated and tried together with reference No. L-42011(24)/81-FC I.D.IV(A) dated the 1st of May, 1982 pertaining to a similar dispute between the same employer and a number of workmen viz. Labh Singh and others, since they involved common questions of fact and law. A formal order to this effect was passed by me on 20-2-84 on the recorded request of the parties obviously to avoid any apprehension of conflict in findings, multiplicity of proceedings and undue financial strains to them.

3. The aforesaid reference of Labh Singh and others has since been decided today and thus for the reasons detailed therein on sustaining the petitioners (workmen) cause in its pith and substance I return my Award in their favour.

Chandigarh,
29-9-1984.

I. P. VASISHTH, Presiding Officer.

[No. L-42011(15)/81-D.IV(A) [D.V.]

S.O. 3396.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal, Chandigarh in the industrial dispute between the employers in relation to the management of Food Corporation of India and their workmen which was received by the Central Government on the 5th October, 1984.

**BEFORE SHRI I. P. VASISHTH, PRESIDING OFFICER,
CENTRAL GOVERNMENT, INDUSTRIAL TRIBUNAL,**

CHANDIGARH

Case No. I.D. 18 of 1983

PARTIES:

Employers in relation to the Management of Food Corporation of India.

AND

Their Workmen—Labh Singh & Others.

APPEARANCES:

For the Employers—Shri Gurdas Ram.

For the Workmen—Shri Pawan Kumar Singla.

ACTIVITY: Food Corporation of India. **STATE:** Punjab.

AWARD

The Central Govt. Ministry of Labour in Exercise of the powers conferred on them under Section 10(1) (d) of the Industrial Disputes Act, 1947 hereinafter referred to as the Act, per their Order No. L-42011(24)/81-FC I.D.IV(A) dated the 1st of May 1982 read with S.O. No. S-11025(2)/83 dated the 8th of June, 1983 referred the following industrial dispute to this Tribunal for adjudication.—

“Whether the demand of the workmen that 33 Watchmen employed on Casual basis, whose names are listed in the Annexure, be regularised and placed in the scale of Rs. 210-4-240 with usual allowances as admissible to regular Watchmen is justified? If so, to what relief are the concerned workmen entitled”

ANNEXURE

Sl. No. Name of the workmen.

1. Sh. Labh Singh
2. Sh. Balbir Kumar
3. Sh. Om Parkash
4. Sh. Sunder Singh
5. Sh. Basta Singh
6. Sh. Narinder Singh
7. Sh. Darshan Singh S/o Sh. Kirpal Singh
8. Sh. Darshan Singh S/o Sh. Karnail Singh
9. Sh. Jegdev Singh
10. Sh. Burbakshis Singh
11. Sh. Harminder Singh
12. Sh. Gurcharan Singh
13. Sh. Jageip Singh
14. Sh. Rajinder Singh
15. Sh. Hari Chand
16. Sh. Hamir Singh
17. Shri Hari Singh
18. Sh. Mohinder Singh
19. Sh. Nirmal Singh
20. Sh. Surinder Singh Bhatti
21. Sh. Bhim Singh S/o Mukhtiar Singh
22. Sh. Malkiat Singh
23. Sh. Charan Singh
24. Sh. Jagtar Singh
25. Sh. Shiv Dass Singh
26. Sh. Ranjit Singh
27. Sh. Babu Singh
28. Sh. Dalip Singh
29. Sh. Bhim Singh S/o Sh. Saun Singh
30. Sh. Budh Singh
31. Sh. Charanjit Singh
32. Sh. Hukam Singh
33. Sh. Pritam Singh

2. Brief facts of the case, according to the petitioner/workmen are that they are employed as Casual Watchmen under the Respondent Corporation for a number of years ranging from 1979-80 onwards. It was averred that the Corporation is involved in the activity of purchase, sale, distribution and storage of food grains, that it operates through its various Depots and they are employed under the overall charge of the District Manager Sangrur. As a matter of fact about 4,000 Watchmen are engaged on such Depots under the Respondent Corporation in the State of Punjab and out of them about 3,000 are on the regular strength whereas the remaining are branded as ‘Casuals’ even though they perform the same nature of duties. It was complained that because of their inferior status as “Casuals” the petitioners are being denied the regular pay scales and other fringe benefits usually accorded to their colleagues working in the regular cadre. They pleaded that even though the Management was in the need of a large number of regular-hands yet it was deliberately keeping them on the Casual-list and discriminating against them in the matter of payment of wages despite the fact that both the categories of Watchmen i.e., “regular” as well as “Casuals” are doing the same job.

3. The petitioners' Union, therefore, raised a demand on the Management for regularising their services. During the discussions before the ALCC, the Management projected a Government ban on recruitment of regular staff, but all the same, showed its willingness to do the needful as and when the ban was removed.

4. However, when the Union again raised the issue after lifting of the ban, the Management backed out and so much so that it questioned even their "locus standi" by alleging that they were serving it on loan basis from the Punjab Home Guards which was their parent department. Thus the Management refused to respond favourably and the matter could not be settled amicably despite the intervention of the Conciliation Officer; hence the reference.

5. Resisting the proceedings the Respondent Corporation pleaded that claimant-petitioners were permanent member-volunteers of the Punjab Home Guards, appointed in accordance to the provisions of Section 3 of the Punjab Home Guards Act 1947; that their services were been bor-

rowed from the Punjab Home Guards and that there is no privity of Contract between them and the Corporation on the point of employment. To put it in other words the Corporation denied that the petitioners were its employees who could claim a "Reference" on any contentious issue relating to the working conditions or terms of employment.

6. Elaborating its version the Corporation contended that the petitioners were regular members of a Para-military force and working with it on loan basis on being sponsored by their parent department i.e. the Punjab Home Guards; that otherwise also keeping in view the fluctuating load of its business activity it was not possible for the Corporation to regularise the services of any Casual-Watchman. As a necessary corollary it was denied that there was any agreement or undertaking during the Conciliation, proceedings to regularise their services or to absorb them in the regular cadre.

7. Meanwhile the Central Government also referred the following 8 others similar disputes to this Tribunal for adjudication:—

1. 13/83	Harmesh Kumar & Others Vs. FCI	Order No. L-42012/11/82. D. IV(a) dated the 27th August, 1982.
2. 16/83	Jagpal Singh & Others Vs. FCI.	Order No. 42011/15 81-D. IV(A) dated the 16th November, 1981.
3. 19/83	Rampal Singh & Others Vs. FCI.	Order No. L-42011/17/81-FCI/D. IV(A) dated the 18th February, 1982.
4. 21/83	Pardeep Kumar & Others Vs. FCI	Order No. L-42012/1/82-FCI/D. IV(A) dated the 14th May, 1982.
5. 119/83	Ravinder Kumar and Others Vs. FCI	Order No. L-42012/7/82-FCI D.IV(A) dated the 27th August, 1982.
6. 133/83	Amar Singh & Others Vs. FCI.	Order No. L-42011(17)/81-FCI/D. IV(A) dated the 17th September, 1982.
7. 2/84	Workmen Vs. FCI	Order No. L-42011/2/83/D. IV(B) D. IV(B) dated the 30th January, 1984.
8. 3/84	Workmen Vs. FCI	Order No. L-42012(20)/83/D. II(B) D. IV(B) dated the 30th January, 1984.

8. Since common questions of fact and law were involved in all these case, therefore, to avoid any apprehension of conflict in findings, multiplicity of proceedings and undue financial strains on the parties, on their recorded request, I consolidated them all in the instant matter of Labh Singh and others for a common adjudication per my order dated 20th February, 1984. Obviously, this Award shall hold valid for all these References.

9. In support of their respective versions both the parties adduced verbal as well as documentary evidence which I have carefully perused and heard them. On behalf of the Respd. Corporation (Management), validity of the reference was seriously challenged because according to it the petitioners were permanent employees of the Punjab Home Guards, though for the time being they were working under its control on deputation; moreover they were "Casuals" and did not qualify to be called as "Workman". To be precise, the Corporation questioned the bonds of Master-servant relationship between the parties and contended that the petitioners were not such Workmen whose service disputes could be referred to the Tribunal.

10. I am afraid, the entire effort of the Corporation to wriggle out of the contest by challenging the Tribunal's jurisdiction is misconceived. Without going into any unnecessarily laboured examination of the later part of its contention, it should suffice to record that the definition of "Workman" laid down in Section 2(s) of the Act is wide enough to include in its ambit even the Casual work-force. For my views I draw support from the ratio of the cases of Pilot Pen Company (Ind.) Pvt. Ltd. vs. Presiding Officer Additional Labour Court 1971(1)(LLJ 241, and Crompton Engg. Co. (Madras) Pvt. Ltd. Vs. Additional Labour Court Madras 1975 (1) LLJ 207.

11. Similarly there is no force in the submission that there was any lack of privity between the parties i.e. the ties of an Employer and Employees. It was urged that the petitioners were employees of Punjab Home Guard and working under it on loan/deputation basis. The proposition was sought to be supported by the testimony of its Dy. Manager Gurdas Ram MW1 and some correspondence between the Respd. Corporation and Punjab Home Guards per letters Ex. M1, M4, M5 M9, M10, M11 and W14 in which there was a mention of the petitioners' being deputed to the Respd. Corporation as Casual Watchmen on deputation.

12. It appears that the Management has tried to read too much in between the lines of the aforesaid documents where-

as the evasive nature of the replies given by Sh. Gurdas Ram during the cross-examination should undo most of the averments raised in his affidavit Ex. M20 as he had no personal knowledge of a number of vital facts. Otherwise also the petitioners status and their relationship with the Respd. Corporation requires adjudication in the totality of the situation rather than on isolated appraisalment of a few convenient projections to which the petitioners were not a party. To put it plain a simple nomenclature in some of the aforesaid letters would not suffice to determine the issue of relationship between the parties particularly when the petitioners were not even joined in that Correspondence. In the cases of Satish Plastics Vs. R.P.F. Commissioner 1981 (Vol 2) LLJ 277 and ESIC Madras Vs Bharat Pulverising Mills (P. Ltd.) 1979 (Vol. 1) LLJ 343 Their Lordship were pleased to hold that even the contract labour working through any medium or intervener would qualify to be called as "employee" of the real pay-master under the beneficiary Labour Statutes.

13. Be that as it may there are certain fundamentals to decide the proposition of somebody's working on deputation. To be precise there has to be a parent department and borrowing Organisation who wants to utilize the services of the employees of the former for some limited purpose or period. Obviously it requires the consent of all the three parties, including the concerned employee whose tenure and service conditions, while working on deputation, are fixed on mutual agreement, but all the same his roots keep on sticking to the parent department in the form of lien against the original post and that is how that normally temporary employees are not sent out on deputation. Significantly enough, in the case in hand it was not even suggested by the Management that the petitioners were a consenting parties to such an arrangement. Similarly their appointment letters containing the terms and conditions of the alleged deputation should have also been prepared and shown to the Tribunal, but it was not to be and the reasons are not far too difficult to seek.

14. On the other hand the Home Guards District Commander Amrik Singh, who was examined by the petitioners as WW2, completely demolished the proposition of their alleged employment on deputation to the Respd. Corporation. As a matter of fact his statement was very elaborate and to the point, to show that the Home Guards do not keep any permanent or regularly salaried volunteers, rather they enroll ordinary volunteers from different walks of life and

Organisations working under the control of the State and Central Govt. or Autonomous bodies who are then galvanised into a semi-disciplined force and imparted training in the upkeep and use of Arms; whenever any Public Organisation or Public Utility Service requires, they depute volunteers on such duties; obviously the borrowing Organisation pays them the duty charges even though they keep on drawing their usual salary and allowance from their Parent Departments also i.e. where they are permanently employed. To put in other words, the Home Guards are only a link agency. Of course it also pays them certain allowances and retains a sort of statutory control to recall them at any time for call out duties, training and parade etc; but it never assumes the powers and pedestal of an Employer.

15. In our case the petitioners were not employees of any Organisation; they were enrolled with the Home Guards as volunteers and deployed to work as Casual Watchmen under the Respd. Corporation on latter's requisition. For all intents and purposes they were working for, and under the control of, the Corporation of whole time basis and were being paid by it. It is an entirely different thing that under the enabling provisions of the Punjab Home Guards Act 1947 they could be recalled by the Home Guards' for any emergency duty connected with the maintenance of law and Order as also for usual parades and training etc. but even for that period, the payment or their usual wages was the liability of the Corporation.

16. Then, we have the advantage of a number of documents filed by the petitioners' Union to establish the Master-servant relationship between the parties in the Correspondence Exts. W3 to W10, W11, W16 to W18, W34, W59, W76 and W110, which indicate an admission by the Management in the sense that in their inter se dealings, some sort of undertakings were given to regularise the petitioners' services as Watchmen; obviously on the assumption that they were its employees. To crown it all, its own circular Ex. W72 and the correspondence consisting of letters Ex. W111 and W112 would leave no manner of doubt that the proposition of calling or retaining deputationists in the Class IV category of Employees was never approved by the Management of the Respd. Corporation.

17. It was argued that since the petitioners were not sponsored by any Employment Exchange therefore, they could not be accepted by the Corporation as its employees. I am not impressed with the logic primarily because on its own showing the petitioners are only "Casuals" and were not recruited on regular basis. The other angle is that the Employment Exchange is just a source or medium of recruitment and if any Employer by-passes it he may be called upon to explain the lapse but ipso facto it does not mean that the person employed by him was not his "servant". It is besides the point that Sec. (i) read with 3(d) of the Employment Exchanges (comp. notifi. of vacancies) Act, 1939 exempts the petitioners categories for the exercise.

18. I, therefore, repel the Respd.'s objection and hold that there was a relation of Master and servant; i.e. Employer and employee; between the parties and that the petitioners being "Workman" within the proviso of Section 2(s) of the Act were eligible to raise the demand for regularising their services and, as such, the Appropriate Govt. was also competent to seek judicial adjudication under Section 10 of the Act.

19. That directly confronts the Tribunal with the crucial issue contained in the terms of reference as to whether or not the Management should be asked to regularize the petitioners' services and to place them in the Cadre scale of Rs. 210-240.

20. On behalf of the Management it was strenuously argued that in the very nature of things it could not possibly regularise the services of the petitioners because its dominant activity of purchase, sale and distribution of food grains was seasonal; and that the work load always keeps on fluctuating from crop to crop. In the same sequence it was propounded that the retention of a large number of Watchmen during the lean periods would have serious implications on the corporation's limited financial resources.

21. Despite seeming attraction, the submission failed to carry conviction with me. The pertinent point is that according to the common case of the parties the petitioners are working for the Respd. Corporation since the year 1980. If not from earlier; except for one or two insignificant breaks, there has been a consistent continuity in their service. I do appreciate the seasonal nature of the Corporation's business but what defies logic is, as to then what for it kept on

retaining them all around the year, including the lean periods when the activity of the purchase and sale of food grains is reduced to the minimal level? It rather shows that the Corporation requires a large number of Watchmen for its multifarious assignments including upkeep and security of the stored stuff.

22. One can not lose sight of the fact that the Respd. Corporation is a miniature incarnation of a Welfare State. In my considered opinion it is expected to behave like a model Employer rather than the proverbial Shylock. Its present conduct in dealing with the "Subject" may not tantamount to unfair labour practice; but it certainly is not fair to the poor employees to keep them in suspended animation for years together. The very thought and apprehension of an unprotected termination at the sweet will of the Employer is repulsive to the philosophy of a progressive society, and that, perhaps, explains the gist of the Corporation's Circular Ex. W111 dated 20-7-78 in which the practice of keeping Casual labour on adhoc and daily basis for a number of years was deprecated. It was rather desired that steps should be taken to create regular posts to the desired extent. Of course with the approval of the competent authority.

23. I, therefore, sustain the petitioners' cause in its pith and substance, but on taking a broad view of the situation including the administrative and financial limitations of the Respd. Corporation, I direct that all the Casual Watchmen who joined its services on or before 31st December, 1980 should be forthwith regularised against available posts in accordance to their seniority; to be precise the length of service put in by a Casual Watchmen under the Respd. Corporation would be the determining factor for filling up the post. In case the requisite number of vacancies are not available to absorb all such employees, the Respd. Corporation shall take necessary steps to create an equal number of posts at the first available opportunity i.e. at the time of preparation of the Budget for the next financial year.

24. Notwithstanding anything contained here-in-before it would be permissible for the Respd. Corporation to utilise the existing vacancies as its Depots other than Sangrur also for the absorption of the petitioners and in case any of them refuses to accept the offer he would be placed at the tail of the seniority list whereas the second refusal by him would invite the penalty of losing the claim altogether.

25 Award returned accordingly.

Chandigarh

29-9-1984

I. P. VASISHTH, Presiding Officer

[No. L-42011(24)/81-FCI/D.IV(A)/D.V.]

New Delhi, the 12th October, 1984

S.O. 3397.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal, Chandigarh, in the industrial dispute between the employers in relation to the management of Food Corporation of India and their workmen which was received by the Central Government on the 5th October, 1984.

BEFORE SHRI I.P. VASISHTH, PRESIDING OFFICER,
CENTRAL GOVT., INDUSTRIAL TRIBUNAL,
CHANDIGARH

Case No. I.D. 133 of 1983

PARTIES :

Employers in relation to the management of Food Corporation of India.

AND

Their Workmen Amar Singh and others.

APPEARANCES :

For the Employers—Shri Gurdas Ram

For the Workmen—Shri Pawan Kumar Singla.

STATE : Punjab. ACTIVITY : Food Corporation of India

AWARD

Dated the 29th of September, 1984

The Central Govt., Ministry of Labour in exercise of the powers conferred on them under Section 10(1)(d) of the Industrial Disputes Act, 1947, hereinafter referred to as the Act, per their Order No. L-42011(17)/81-FCI/D.IV(A) dated the 17th of September 1982 read with S.O. No. S-11025(2)/83 dated the 8th of June, 1983 referred the following industrial dispute to this Tribunal for adjudication.

"Whether the demand of the workmen of the Food Corporation of India for regularisation of the under-

mentioned daily-rated casual Watchmen employed at Dibra and Khanauri Depots in Sangrur District in the scale of Rs. 210-240 is justified? If so, to what relief are the concerned workmen entitled?"		
Sr. No.	Name of the workman	Depot
1.	Sh. Amar Singh S/o Sh. Harnick Singh	Dirba
2.	Shri Gurtej Singh C/o Sh. Baldev Singh	Khanauri
3.	Shri Mithu Singh S/o Shri Sher Singh	—do—
4.	Shri Bant Singh S/o Shri Gurnam Singh	—do—

3. The instant reference was consolidated and tried together with reference No. L-42011(24)/81. FCI.D.IV(A) dated the 1st of May 1982 pertaining to a similar dispute between the same Employer and a number of workmen viz. Labh Singh and others, since they involved common questions of fact and law. A formal order to this effect was passed by me on 20-2-1984 on the recorded request of the parties; obviously to avoid any apprehension of conflict in findings, multiplicity of proceedings and undue financial strains to them.

3. The aforesaid reference of Labh Singh and others has since been decided today and thus for the reason as detailed therein, on sustaining the petitioners (Workmen) cause in its pith and substance I return my Award in their favour.

Chandigarh.
29-9-1984.

J. P. VASISHTH, Presiding Officer.
[No. L-42011(17)/81-FCI/D.IV(A)/D.V.]

S.O. 3398.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following Award of the Central Government Industrial Tribunal, Chandigarh, in the industrial dispute between the employers in relation to the management of Food Corporation of India, and their workmen, which was received by the Central Government on the 5th October, 1984.

BEFORE SHRI I. P. VASISHTH, PRESIDING OFFICER,
CENTRAL GOVT., INDUSTRIAL TRIBUNAL,
CHANDIGARH

Case No. 19 of 1983

PARTIES :

Employers in relation to the Management of Food Corporation of India.

AND

Their Workmen—Rampal Singh and Others

APPEARANCES :

For the Employers—Shri Gurdas Ram
For the Workmen—Shri Pawan Kumar Singla.

STATE : Punjab ACTIVITY : Food Corporation of India

AWARD

Dated the 29th of September, 1984

The Central Govt., Ministry of Labour, in exercise of the powers conferred on them under Section 10(1)(d) of the Industrial Disputes Act, 1947, hereinafter referred to as the Act, per their Order No. L-42011/17/81-FCI/D.IV(A) dated the 18th of February 1982 read with S.O. No. S-11025(2)/83 dated the 8th of June, 1983 referred the following industrial disputes to this Tribunal for adjudication :

“Whether the demand of the workmen of the Food Corporation of India for regularisation of the under mentioned daily-rated casual Watchmen employed at Dirba and Khanauri Depots in Sangrur District in the scale of Rs. 210-240 is justified? If not to what relief are the concerned workmen entitled?”

Sr. No.	Name of the Workmen	Name of the Depot
1.	Shri Ram Pal Singh S/o. Shri Chanan Singh	Dirba
2.	Shri Balwant Singh S/o Gurnam Singh	Khanauri
3.	Shri Jeet Singh S/o Sukhdev Singh alias Shri Kartar Singh	Khanauri

2. The instant reference was consolidated and tried together with reference No. L-42011(24)/81-FCI.D.IV(A) dated the 1st of May 1983 pertaining to a similar dispute between the same Employer and a number of workmen viz. Labh Singh and others, since they involved common questions of fact and law. A formal order to this effect was passed by me on 20-2-1984 on the recorded request of the parties, obviously to avoid any apprehension of conflict in findings, multiplicity of proceedings and undue financial strains to them.

2. The aforesaid reference of Labh Singh and others has since been decided to-day and thus for the reasons detailed therein, on sustaining the petitioners (Workmen) cause in its pith and substance I return my Award in their favour.

Chandigarh
29-9-1984.

J. P. VASISHTH, Presiding Officer
[No. L-42011(17)/81-FCI/D.IV(A)/D.V.]

New Delhi, the 16th October, 1984

S.O. 3399.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal Chandigarh, in the industrial dispute between the employers in relation to the management of Food Corporation of India and their workmen, which was received by the Central Government on the 5th October, 1984.

BEFORE SHRI I. P. VASISHTH, PRESIDING OFFICER,
CENTRAL GOVT., INDUSTRIAL TRIBUNAL,
CHANDIGARH

Case No. I. D. 119 of 1983

PARTIES :

Employers in relation to the management of Food Corporation of India, Chandigarh.

AND

Their Workmen : Ravinder Kumar and others

APPEARANCES :

For the Employers—Shri Gurdas Ram

For the Workmen—Shri Pawan Kumar Singla.

STATE : Punjab. ACTIVITY : Food Corporation of India

AWARD

Dated the 29th of September, 1984

The Central Govt., Ministry of Labour in exercise of the powers conferred on them under Section 10(1)(d) of the Industrial Disputes Act, 1947, hereinafter referred to as the Act, per their Order No. L-42012/7/82-FCI.D.IV(A) dated the 27th of August 1982 read with S.O. No. S-11025(2)/83 dated the 8th of June 1983 referred the following industrial dispute to this Tribunal for adjudication :

“Whether the action of the management of Food Corporation of India in not regularising the workmen, whose names are mentioned in the Annexure, in the scale of Rs. 210-240 is justified? If not, to what relief are the concerned workmen entitled?”

ANNEXURE

Sr. No.	Name of the Workmen	Father's name
1.	Shri Ravinder Kumar	Shri Nand Lal
2.	„ Karnail Singh	Shri Sarwan Singh
3.	„ Nirmal Singh Bhattal	Shri Basant Singh

4. Shri Nichhatter Singh	Shri Azaib Singh
5. " Vir Chand	Shri Parbhu Ram
6. " Jaswant Singh	Shri Surjit Singh
7. " Ram Dyal Singh	Shri Anokh Singh
8. " Sadhu Singh	Shri Joginder Singh
9. " Prem Lal	Shri Harnek Singh
10. " Rajinder Pal	Shri Hari Chand
11. " Sarup Singh	Shri Jangir Singh
12. " Khem Chand	Shri Dhanna Ram
13. " Baldev Krishan	Shri Das Raj
14. " Gurmail Singh	Shri Gurdev Singh
15. " Chattrar Kumar	Shri Girdhari Lal

2. The instant reference was consolidated and tried together with reference No. 42011(24)/81-FCID.IV(A) dated the 1st of May 1982 pertaining to a similar dispute between the same Employer and a number of workmen viz. Labh Singh and others, since they involved common questions of fact and law. A formal order to this effect was passed by me on 20-2-1984 on the recorded request of the parties; obviously to avoid any apprehension of conflict in findings, multiplicity of proceedings and undue financial strains to them.

3. The aforesaid reference of Labh Singh and others has since been decided today and thus for the reason detailed therein, on sustaining the petitioners (Workmen) cause in its pith and substance I return my Award in their Favour.
Chandigarh
29-9-1984.

I. P. VASISHTH, Presiding Officer.

[No. L-42012(7)/82-FCI/D.IV(A)/D.V.]

S.O. 3400.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal, Chandigarh, in industrial dispute between the employers in relation to the management of Food Corporation of India and their workmen, which was received by the Central Government on the 5th October, 1984.

BEFORE SHRI I. P. VASISHTH, PRESIDING OFFICER,
CENTRAL GOVT., INDUSTRIAL TRIBUNAL,
CHANDIGARH

Case No. I.D. 21 of 1983

PARTIES :

Employers in relation to the management of Food Corporation of India, Chandigarh.

AND

Their Workmen—Pardeep Kumar and others

APPEARANCES :

For the Employers—Shri Gurdas Ram

For the Workmen—Shri Pawan Kumar Singla.

STATE : Punjab. Activity : Food Corporation of India

AWARD

Dated the 29th of September, 1984

The Central Govt., Ministry of Labour, in exercise of the powers conferred on them under Section 10(1)(d) of the Industrial Disputes Act 1947, hereinafter referred to as the Act, per their Order No. L-42012(1)/82-FCI/D.IV(A) dated the 14th of May 1982 read with S.O. No. S-11025(2)/83 dated the 8th of June 1983 referred the following industrial dispute to this Tribunal for adjudication

"Whether the demand of the Food Corporation of India, Class IV Employees' Union that the services of Sarvashri (1) Pradeep Kumar S/o Shri Rameshwar Dass (2) Des Raj S/o Shri Basant Ram (3) Surjit Singh S/o Shri Teja Singh and (4) Surinder Kumar Bhati S/o Shri Nathi Mal Bhatti, Watchman employed on casual basis be regularised and placed

in the scale of Rs. 210-240, taking into account all relevant factors and the Circular No. 33 of 1980 dated the 26th of March 1980 issued by the Management is justified ? If so, to what relief are the concerned workmen entitled ?"

2. The instant reference was consolidated and tried together with reference No. L-42011(24)/81-FCID.IV(A) dated the 1st of May 1982 pertaining to a similar dispute between the same Employer and a number of workman viz. Labh Singh and others, since they involved common questions of fact and Law. A formal order to this effect was passed by me on 20-2-1984 on the recorded request of the parties; obviously to avoid any apprehension of conflict in findings, multiplicity of proceedings and undue financial strains to them.

3. The aforesaid reference of Labh Singh and others has since been decided today and thus for the reasons detailed therein, on sustaining the petitioners (Workmen) cause in its pith and substance I return my Award in their favour.

Chandigarh.

29-9-1984.

I. P. VASISHTH, Presiding Officer.

[No.L-42012(1)/82-FCI/D.IV/D.V]

New Delhi, the 20th October, 1984

S.O. 3401.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal, Chandigarh, in the industrial dispute between the employers in relation to the management of Food Corporation of India, and their workmen, which was received by the Central Government on the 5th October, 1984.

BEFORE SHRI I.P. VASISHTH, PRESIDING OFFICER,
CENTRAL GOVERNMENT, INDUSTRIAL TRIBUNAL,
CHANDIGARH

Case No. I.D. 3 of 1984

PARTIES :

Employers in relation to the Management of Food Corporation of India.

AND

Their Workmen

APPEARANCES :

For the Employers : Shri Gurdas Ram

For the Workmen : Shri Pawan Kumar Singla

ACTIVITY : Food Corporation of India STATE : Punjab.

AWARD

Dated the 29th of September, 1984

The Central Government, Ministry of Labour, in exercise of the powers conferred on them under Section 10(1)(d) of the Industrial Disputes Act, 1947, hereinafter referred to as the Act, per their Order No. L-42012(20)/83-D. II(B)/D. IV(B) dated the 30th January, 1984 referred the following industrial dispute to this Tribunal for adjudication :

"Whether the demand of Food Corporation of India Class IV Employees Union for regularisation of Sarvshri Joginder Singh, Balvinder Singh, Harnek Singh, Sabbar Ali, Sat Pal and Kewal Singh casual Watchmen in Punjab Region of Food Corporation of India, drawn from the Punjab Home Guards Department, and who have completed

more than 240 days of work, in the scale of Rs. 210—240 is justified? If so, to what relief are these workmen entitled and from what date?

2. The instant reference was consolidated and tried together with reference No. L-42011(24)/81. FCI. D. IV (A) dated the 1st of May 1982 pertaining to a similar dispute between the same Employer and a number of workmen viz. Labh Singh and others, since they involved common questions of fact and law a formal order to this effect was passed by me on 22-2-1984 on the recorded request of the parties; obviously to avoid any apprehension of conflict in findings, multiplicity of proceedings and undue financial strains to them.

3. The aforesaid reference of Labh Singh and others has since been decided today and thus for the reason detailed therein, on sustaining the petitioners' (workmen) cause in its pith and substance I return my award in their favour.

CHANDIGARH.
29-9-1984.

I. P. VASISHTH, Presiding Officer.

[No. L-42012(20)/83/D.II(B) D.IV(A)/D.V.]

S.O. 3402.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal, Chandigarh, in the industrial dispute between the employers in relation to the management of Food Corporation of India and their workmen, which was received by the Central Government on the 5th October, 1984.

BEFORE SHRI I. P. VASISHTH PRESIDING OFFICER,
CENTRAL GOVERNMENT, INDUSTRIAL TRIBUNAL,

CHANDIGARH

Case No. I.D. 2 of 1984

Employers in relation to the Management of Food Corporation of India.

AND

Their Workmen

APPEARANCES :

For the employers : Shri Gurdas Ram

For the Workmen : Shri Pawan Kumar Singla

ACTIVITY : Food Corporation of India STATE : Punjab

AWARD

Dated the 29th September, 1984

The Central Government, Ministry of Labour, in exercise of the powers conferred on them under Section 10 (1)(d) of the Industrial Disputes Act, 1947, hereinafter referred to as the Act, per their Order No. L-42011(2)/83/D. II. B/D. IV. BIVB dated the 30th of January, 1984 referred the following industrial dispute to this Tribunal for adjudication :—

"Whether the demand of Food Corporation of India Class IV Employees' Union for regularisation of the casual watchmen, listed in the Annexure below, in the Punjab region of Food Corporation of India, drawn from the Punjab Home Guards Department and who have completed more than 240 days of work, in the scale of Rs. 210—240 is justified? If so, to what relief are these workmen entitled and from what date?"

ANNEXURE

S. No.	Name of Workmen	Name of Father
1	2	3
1.	Sh. Randip Kumar	Sh. Gian Chand
2.	Gurpal Singh	Sh. Inder Singh

1	2	3
3. Kirat Singh	Sh. Bachan Singh	
4. Malkit Singh	Sh. Banta Singh	
5. Singra Singh	Sh. Lal Singh	
6. Naresh Kumar	Sh. Bhagwan Dass	
7. Sukhvinder Singh	Sh. Darbara Singh	
8. Madan Lal	Sh. Hem Raj	
9. Sh. Suresh Kumar	Hari Lal	
10. Sh. Piara Singh	Late Sh. Gurdev Singh	
11. Sh. Madan Singh	Sh. Puran Singh	
12. Sh. Krishan Kumar	Sh. Atma Ram	
13. Gurmukh Singh	Sh. Joginder Singh	
14. Sh. Sukhvinder Singh	Sh. Bant Singh	
15. Sh. Darbara Singh	Sh. (Sick-?)	
16. Sh. Deep Singh	Sh. Rameshwar Singh	
17. Sh. Devinder Singh	Sh. Sadhu Singh	
18. Sh. Darshan Singh	Sh. Chand Singh	
19. Sh. Hardev Singh	Sh. Kartar Singh	
20. Sh. Bhajan Singh	Sh. Kaka Singh	
21. Sh. Kesar Singh	Sh. Paritam Singh	
22. Sh. Rajinder Singh	Sh. Sardar Singh	
23. Sh. Mewa Singh	Chanan Singh	
24. Sh. Balbir Singh	Sh. Kaka Singh.	

2. The instant reference was consolidated and tried together with reference No. 42011(24)/81 FCI. D. IV (A) dated the 1st of May, 1982 pertaining to a similar dispute between the same employer and a number of workmen viz. Labh Singh and others, since they involved common questions of fact and law. A formal order to this effect was passed by me on 20-2-1984 on the recorded request of the parties; obviously to avoid any apprehension of conflict in findings, multiplicity of proceedings and undue financial strains to them.

3. The aforesaid reference of Labh Singh and others has since been decided today and this for the reasons detailed therein, on sustaining the petitioners' (Workmen) cause in its pith and substance I return my award in favour.

Chandigarh
29-9-1984

I. P. VASISHTH, Presiding Officer

[No. L-42011(2)/83-D. II(B)/D. IV(B)/D. V.]

S. S. MEHTA, Desk Officer

New Delhi, the 16th October, 1984

S.O. 3403.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal No. II, Bombay in the industrial dispute between the employers in relation to the Bank of Maharashtra, Pune, and their workmen, which was received by the Central Government on the 4th October, 1984.

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL NO. 2, BOMBAY

Reference No. CGIT-2/39 of 1983

PRESENT :

Shri M. A. Deshpande, Presiding Officer.

PARTIES :

Employers in relation to the Management of Bank of Maharashtra, Pune.

AND

Their Workmen.

APPEARANCES :

For the Employers—Shri V. P. Shindre, Advocate.

For the Workmen—Shri S. M. Dharap, Advocate.

INDUSTRY : Banking.

STATE : Maharashtra.

AWARD

Bombay the 20th September, 1984

(Dictated in the Open Court)

By their order No. L-12012/86/83-D-II-A, dated 8-11-1983 the following dispute has been referred for adjudication under Section 10(1)(d) of the Industrial Disputes Act, 1947 :—

"Whether the action of the management of Bank of Maharashtra, Pune in relation to their Somwar Peth Branch in treating Shri A. M. Kulkarni, Clerk on probation from 1-1-1970 instead of from 27-6-1967 is justified? If not, to what relief is the workman concerned entitled?"

2. The dispute as it stands relates to one Shri A. M. Kulkarni, a clerk whose posting dates are as follows :—

He was initially appointed at Sangli Branch on 27-6-1967 and then at Manchar Branch on 7-11-1969. On 1-1-1970 he was selected as probationer and thereafter continued to be in service continuously.

3. The contention of the Union who is espousing the cause of the workman Shri A. M. Kulkarni is that this period from 27-6-1967 should be considered as period of probation and therefore for the purpose of Bank's record his date of entry should be not from 1-1-1970 when he was selected as a probationer but 27-6-1967 when he was initially appointed at Sangli Branch. For the said purpose the Union is relying upon Para. 20.8 of the Bipartite Settlement and further relying upon the definition of probationer as appearing in Desai count also para 20.8 is not attracted.

4. By written statement the Bank has refuted all these contentions, stated that neither the definition of probationer as appearing in the Desai Award nor para. 20.8 is attracted since the appointment of Shri Kulkarni was never in a permanent vacancy as contemplated in the relevant provision and therefore no relief is possible. It is further urged that the eventual selection of Shri Kulkarni was never in the vacancy in which he was serving initially and as such on this count also para. 20.8 is not attracted.

5. On the above pleading the following issues arise for count also para 20.8 is not attracted.

ISSUES

BINDINGS

- | | |
|---|-----------------|
| 1. Whether the workman and the Union are guilty of laches? If yes, are they not entitled to any relief? | Does not arise |
| 2. Whether the services of Shri A.M. Kulkarni as temporary hand should be counted for the purpose of determining the date of joining? | No |
| 3. If yes, whether the action of the Bank in holding the date of joining as 1-1-1970 and not 26-6-1967 is justified? | Yes |
| 4. Whether the period of training from 28-10-69 to 1-1-70 as alleged can be considered for determining the date of entry? | No |
| 5. If not, to what relief the workman is entitled? | Does not arise. |

6. The Desai Award in para 23.15 defines the 'probationer' as an employee who is provisionally employed to fill a permanent vacancy or post and has not been made permanent or confirmed in service. Against that temporary employee means an employee who has been appointed for a limited period for work which is of an essentially temporary nature, or who is employed temporarily as an additional employee in connection with a temporary increase in work of a permanent nature and includes an employee other than a permanent employee who is appointed in a temporary vacancy of a permanent workman. As per para 1.1 of the bipartite settlement of the year 1966 there was a slight modification and the modified definition of temporary employee in para 20.7 of the Bipartite Settlement means a workman who has been appointed for a limited period for work which is of an essentially temporary nature or who is employed temporarily as an additional workman in connection with a temporary increase in work of a permanent nature and includes a workman other than a permanent workman who is appointed in a temporary vacancy caused by the absence of a particular permanent workman.

7. Under para 20.8 of the Bipartite Settlement a temporary workman may also be appointed to fill a permanent vacancy provided that such temporary appointment shall not exceed a period of three months during which the bank shall make arrangements for filling up the vacancy permanently. The provision further reads if such a temporary workman is eventually selected for filling up the vacancy, the period of such temporary employment will be taken into account as part of his probationary period. It is therefore necessary that before relevant provisions are attracted there should be a temporary employee, that his appointment must be to fill a permanent vacancy and lastly he must be eventually selected for filling up the vacancy. I am adding the word 'same' because of two different articles used. Initially it is stated "appointed to fill a permanent vacancy" and it is further stated "is eventually selected for filling up the vacancy". The user of article 'a' shows that it may be any vacancy but when the article 'the' is used it means the very vacancy. Unless all these requirements therefore are satisfied the provisions cannot be attracted and the date of appointment cannot relate back to some other earlier date.

8. In this connection if we again revert to para 20.7 of the Bipartite settlement where the temporary employee has been defined it shows that the appointment of temporary employee has to be for a limited period for work which is of an essentially temporary nature or his employment as a temporary hand as an additional workman in connection with a temporary increase in work of a permanent nature or he should be a workman other than the permanent workman, who is appointed in a temporary vacancy. Temporary vacancy and permanent vacancy are not synonyms but antonyms and one would exclude the other. Therefore the very fact that a particular employee is termed as temporary employee would mean that his appointment is in a temporary vacancy which would destroy the force of the contention that his appointment is in a permanent vacancy.

9. But assuming that for the purpose whether the appointment is in a temporary vacancy or permanent one we can look into the record of the Bank or look to the circumstances, here again unless there is cogent proof of permanent vacancy, merely because the strength of the staff is something more is not going to give us the required proof and for this purpose the orders issued by the Bank particularly the order regarding the eventual selection shall have to be seen and we must be in a position to note a definite finding that the selection was in the same post which was on account of permanent vacancy where the workman was working. In my view unless I am in a position to note such a finding no relief would be possible to the workman concerned.

10. In this connection even a cursory glance at the branches where the workman worked before his posting at Manchar read with his oral evidence would indicate that everywhere he was working in temporary vacancy created either on account of leave or on account of transfer. To have a permanent vacancy, merely because he was working in the vacancy of a permanent hand who proceeded on leave or transferred would not suffice. There must be a permanent post and further there must be a permanent vacancy. In my view leave or transfer automatically would not create a permanent vacancy because of transfer the Bank may post somebody else to work in that post. Merely because there happens to be a permanent post or a permanent incumbent either proceeded on leave or was transferred or promoted one cannot jump to the conclusion that there happened to be a permanent vacancy. Further more merely because somebody was transferred we cannot conclude that the posting was to that vacancy. The Bank may post a new hand temporarily in that vacancy because it may happen that somebody else might have claim on that very vacancy. Therefore the order issued at the relevant time, which would guide us in arriving at a correct conclusion and the oral evidence of Shri Kulkarni clearly indicates at least till his posting at Manchar everywhere he was serving in a temporary vacancy.

11. Even at Manchar as per his own admission he was appointed as an additional staff. Appointment as additional hand would not mean that his posting is in a permanent vacancy which was lying vacant there but to a new post created in which he was appointed. The new post may be permanent or may be temporary but merely because he was appointed as an additional staff we cannot infer that his appointment was in a permanent vacancy. Further more the second ingredient

namely his ultimate and eventual selection has to be in the same vacancy which ingredient also in my view is lacking here. Shri Kulkarni had to admit that he possesses no proof of posting to a specific vacancy and further admitted that nobody informed him that he was posted there against the vacancy of a specific person. Furthermore he was appointed as Clerk-cum-Godown Keeper at Mancher and he was unable to say whether anybody working as Clerk-cum-Godown Keeper was transferred from Mancher. If all these admissions are read together and further if the various orders issued by the Bank are considered I must hold that the relevant factors which are crucial factors that Shri Kulkarni worked in a permanent vacancy at all these places or atleast at Mancher are lacking. If we once arrive at this conclusion then the whole case of the Union under para 20.8 or even under the definition of 'probationer' in Desai Award shall fail and therefore no relief or contemplated is possible.

12. The Bank opposes the reference alleging laches also but in my view had the Union otherwise succeeded I would have granted the same relief relying upon the award in Reference No. CGIT-2/4 of 1984 and CGIT-2/11 of 1984. It was tried to be urged by Shri Shintre that quietus has to be given after lapse of sometime and it should be a permanent quietus. In my view when the agreement is entered with the Union it confers certain rights and merely because the employee has come late to the Tribunal he should not be deprived of the monetary benefits though special care will have to be taken not to disturb the prevailing arrangement. However since the case of the Union has been rejected this question does not arise.

Award accordingly.
No order as to costs.

M. A. DESHPANDE, Presiding Officer
[No. L-12012/86/83-D.IIA.]

N. K. VERMA, Desk officer

नई दिल्ली, 18 अक्टूबर, 1984

का.प्रा. 3404—केन्द्रीय सरकार, न्यूनतम मजदूरी अधिनियम, 1948 (1948 का 11) की धारा 9 के साथ पठित धारा 8 और न्यूनतम मजदूरी (केन्द्रीय सलाहकार बोर्ड) नियम, 1949 के नियम 3 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, तत्कालीन श्रम मंत्रालय की तारीख 13 अगस्त, 1981 की अधिसूचना संख्या का० आ० 649 (अ) में, जिसमें का० आ०, 342(अ), तारीख 21-5-1982, का.प्रा. संख्या 362(अ), तारीख 16/17-5-1983, का.प्रा. संख्या 799(अ), तारीख 8-11-1983, द्वारा संशोधन किया गया था, निम्नलिखित संशोधन करती है, अर्थात् :—

उक्त 8 नवम्बर, 1983 की अधिसूचना में स्वतन्त्र सदस्यों से संबंधित मद (1) में क्रम संख्या 6 और 11 तथा उनसे सम्बद्ध प्रविष्टियों के लिये निम्नलिखित रखा जायेगा, अर्थात् :—

“6. श्री विष्णु रामा नायक,
सदस्य, विधान सभा,
पणजी,”

“11. सचिव,
श्रम विभाग, मध्य प्रदेश, सरकार,
भोपाल”

नियोजकों के प्रतिनिधि से संबंधित मद (ii) में क्रम संख्या 5 और उससे सम्बद्ध प्रविष्टियों के लिये निम्नलिखित रखा जायेगा, अर्थात् :—

“5. श्री एम. के. चौधरी,
सलाहकार,

श्रीयोगिक सम्बन्ध
इंडियन टी एसोसिएशन,
रायल एक्सचेंज,
6, नेताजी सुभाष रोड,
कलकत्ता-700001.”

[सं. एस-32023/8/83-डब्ल्यू. सी. (एम. डब्ल्यू.)]

New Delhi, the 18th October, 1984

S.O. 3404.—In exercise of the powers conferred by section 8 of the Minimum Wages Act, 1948 (11 of 1948) read with Section 9 of the said Act and rule 3 of the Minimum Wages (Central Advisory Board) Rules, 1949, the Central Government hereby makes the following amendments in notification in the former Ministry of Labour S.O. 649(E) dated the 13th August, 1981 and modified vide S.O. No. 342(E) dated the 21st May 1982, S.O. No. 362(E) dated the 16/17th May, 1983, S.O. No. 799(E) dated the 8th November, 1983, namely :—

In the notification of the 8th November, 1983 in item (I) relating to independent members for Serial Nos. 6 and 11 and entries relating thereto, the following shall be substituted namely :—

6. Shri Vishnu Rama Naik, M.L.A.,
Panaji

11. Secretary,
Labour Department, Government of
Madhya Pradesh, Bhopal.

In item (II) relating to employer's representatives for Serial No. 5 and entries relating thereto, the following shall be substituted namely :—

5. Shri M. K. Choudhuri,
Adviser,
Industrial Relations,
Indian Tea Association,
Royal Exchange,
6, Netaji Subhas Road,
Calcutta-700001.

[No. S-32023/8/83-W.C. (M.W.)]

का.प्रा. 3405—केन्द्रीय सरकार, न्यूनतम मजदूरी अधिनियम 1948 की धारा 10 की उपधारा (i) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, भारत सरकार के श्रम और पुनर्वास मंत्रालय की तारीख 8 नवम्बर, 1983 की अधिसूचना संख्या का.प्रा. 799(अ) में निम्नलिखित संशोधन करती है, अर्थात् :—

क्रम संख्या 7 में “श्री ए० टी० (बाई) भोसले”
के लिय “श्री ए० टी० उर्फ भाई भोसले” पढ़ा
जाय ।

[सं. एस-32023/8/83-डब्ल्यू. सी. (एम. डब्ल्यू.)]

विशम्बर नाथ, अवर सचिव

S.O. 3405.—In exercise of the powers conferred by sub-section (i) of Section 10 of the Minimum Wages Act, 1948 (11 of 1948), the Central Government hereby makes the following correction in the notification of the Government of India in the Ministry of Labour and Rehabilitation No. S.O. 799(E) dated 8th November, 1983 namely :—

Against S. No. 7 for ‘Shri A. T. (Bai) Bhosale’
read ‘Shri A. T. alias Bhai Bhosale’

[No. S-32023/8/83-W.C. (M.W.)]
BISHAMBAR NATH, Under Secy.

वित्त मंत्रालय

(राजस्व विभाग)

नई दिल्ली, 22 अक्टूबर, 1984

आदेश

का.आ. 3406 :—भारत सरकार के अपर सचिव ने, जिसे विदेशी मुद्रा संरक्षण और तस्करी निवारण अधिनियम, 1974 (1974 का 52) की धारा 3 की उपधारा (1) के अधीन विशेष रूप से सशक्त किया गया है, उक्त उपधारा के अधीन आदेश फा. सं. 673/139/84-सी० शु० 8, तारीख 21-7-84 यह निदेश देते हुए जारी किया था कि श्री अमृत लाल सेठ, निवासी ई-80, पश्चिमी मार्ग, वसन्त विहार, नई दिल्ली को माल की तस्करी करने और माल की तस्करी कराने के लिए दृष्टेयित करने से निवारित करने की दृष्टि से सेन्ट्रल जेल तिहाड़, नई दिल्ली में निरुद्ध कर लिया जाए और अभिरक्षा में रखा जाए, और

2. केन्द्रीय सरकार के पास यह विश्वास करने का कारण है कि पूर्वोक्त व्यक्ति फरार हो गया है या अपने को छिपा रहा है जिससे उस आदेश का निष्पादन नहीं हो सकता है।

3. अतः अब, केन्द्रीय सरकार उक्त अधिनियम की धारा 7 की उपधारा (1) के खंड (ख) द्वारा प्रदत्त शक्तियों का

प्रयोग करते हुए यह निदेश देती है कि पूर्वोक्त व्यक्ति इस आदेश के राजपत्र में प्रकाशन के सात दिन के भीतर पुलिस आयुक्त दिल्ली के समक्ष हाजिर हो।

[फा.सं. 673/139/84-सीमा 8]

आर० मुखोपाध्याय, उप सचिव

MINISTRY OF FINANCE

(Department of Revenue)

New Delhi, the 22nd October, 1984

ORDER

S.O. 3406:—Whereas the Additional Secretary to the Government of India, specially empowered under sub-section (1) of section 3 of the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974 (52 of 1974) issued order F. No. 673/139/84-Cus. VIII dated 21-7-84 under the said sub-section directing that Shri Amrit Lal Seth of E-80, Paschimi Marg, Vasant Vihar, New Delhi be detained and kept in custody in the Central Jail, Tihar, New Delhi, with a view to preventing him from smuggling goods and abetting the smuggling of goods; and

2. Whereas the Central Government has reason to believe that the aforesaid person has absconded or is concealing himself so that the order cannot be executed;

3. Now, therefore, in exercise of the powers conferred by clause (b) of sub-section (1) of section 7 of the said Act, the Central Government hereby directs the aforesaid person to appear before the Commissioner of Police, Delhi within 7 days of the publication of this order in the official Gazette.

[F. No. 673/139/84-Cus. VIII]

R. MUKHOPADHYAY, Dy. Secy.